

**Study on preventing and fighting
illicit trafficking in cultural goods
in the European Union**

by the CECOJI-CNRS – UMR 6224

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Annex Final Report – October 2011

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Annex 1

Information sheets by State¹

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¹ The translations found in databases (UNESCO, EUI) and on the Internet are mentioned in footnotes. They were all last checked by the End of September 2011. In the absence of any contrary indication, the translation has been done by an ?? unofficial ?? translator.

<i>AUSTRIA – AUTRICHE</i>	
Legislation	
Legal definition of cultural good and / or national treasure	Cultural goods § 1 al. 1 <i>DMSG (Denkmalschutzgesetz)</i> [No translation available]
Legal definition of theft of cultural goods	Theft § 127 <i>StGB</i> [No translation available] Theft of cultural goods § 128 <i>StGB</i> [No translation available]
Legal definition of handling	Handling § 164 al. 1 et 2 <i>StGB</i> [No translation available]
Legal definition of good faith or due diligence	Good faith (<i>redlich sein</i>) § 368 al. 1 ABGB [No translation available] Possessor in good and bad faith (<i>Redlicher und unredlicher Besitzer</i>) § 326 ABGB [No translation available] No legal concept of due diligence
Definition of due diligence in the code of ethics	Reference to ICOM in the criteria for the “museum seal of approval” (<i>Österreichisches Museumsgütesiegel</i>), which is awarded by the Austrian ICOM and the Austrian Museums Association (<i>Österreichischer Museumsbund</i>) http://www.museumsguetesiegel.at/shop/data/container/Richtlinien%20%D6sterreichisches%20Museumsg%C3%9Ctesiegel.pdf
Operational tools	
Administration dealing with illicit traffic	Bundesministerium für Unterricht, Kunst und Kultur (BMUKK) Abteilung Denkmalschutz IV/3 Bundesdenkmalamt (BDA) Abteilung Ausfuhrangelegenheiten
Specialized Police Unit	Bundeskriminalamt (BKA) Referat Kulturdelikte
Specialized Customs Unit	(information not provided)
Technical tools	
Database on cultural goods and national treasures	Database on export of cultural goods (<i>Ausfuhrdatenbank</i>) Managed by the Bundesdenkmalamt (BDA), Abteilung Ausfuhrangelegenheiten Not accessible to the public
Database on goods of religious	No

<i>AUSTRIA – AUTRICHE</i>	
value	
Database on private collections	No information is available about databases of private goods, although their existence has been confirmed.
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database of the Austrian police Managed by the Federal Criminal Police (Bundeskriminalamt), BKA, Referat Kulturdelikte Not accessible to the public</p>

<i>BELGIUM – BELGIQUE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural goods</p> <p>No legal definition, although Belgium made reservations to the 1970 UNESCO Convention:</p> <p>Belgium interprets the term “cultural goods” as confined to those objects listed in the Annex to Council Regulation (EEC) No 3911/92 of 9 December 1992, as amended, on the Export of Cultural Goods and in the Annex to Directive 93/7/EEC of 15 March 1993, as amended, on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State.</p> <p>Each competent authority draws up a list of objects that must be considered as cultural goods.</p> <p>French Community</p> <p>Movable cultural property, including treasures, deemed to be of considerable historical interest owing to its historical, archaeological, ethnological or scientific value is classified with a view to its protection.</p> <p>For movable cultural property, the Decree refers to the Annex to the 1992 Regulation.</p> <p>Art. 4 of the Decree on movable cultural property and intangible heritage of 11 July 2002.</p> <p>Flemish Community</p> <p>List of public or private movable cultural heritage, movable property or collections of archaeological, historical, cultural-historical, artistic or scientific value.</p> <p>Chap. V, Art. 11 of the Decree on the protection of movable cultural heritage of exceptional interest of 24 January 2003 (OJ of 14/03/2003).</p> <p>Order implementing the Decree of 24 January 2003 on the protection of movable cultural heritage of exceptional interest (OJ of 6/02/2004) (Chap. VII, Arts. 43-44).</p>
<p>Legal definition of theft of cultural goods</p>	<p>No distinction between the theft of ordinary property and the theft of cultural goods.</p> <p>The status of ‘cultural good’ is not an aggravating circumstance.</p>
<p>Legal definition of handling</p>	<p>Handling (instantaneous offence)</p> <p>Persons who have handled all or part of objects removed, misappropriated or obtained by means of a crime or an offence are punished.</p> <p>Art. 505(1) No. 1 of the Criminal Code</p> <p>Handling (continuing offence)</p> <p>Persons who have purchased, received against payment or free of charge, possessed, held or handled the objects referred to in Art.</p>

<i>BELGIUM – BELGIQUE</i>	
	42(3) when they knew or should have known the origin of those objects at the start of such operations are punished. Art. 505(1) No. 2 of the Criminal Code, amended by the law of 10 May 2007 introducing various handling and seizure measures (in force since 1 September 2007)
Legal definition of good faith or due diligence	No specific definition
Definition of due diligence in the code of ethics	No
Operational tools	
Administration dealing with illicit traffic	Ministry of Culture of each Community
Specialized Police Unit	No
Specialized Customs Unit	No
Technical tools	
Database on cultural goods and national treasures	<p>French Community With a view to protecting missing property, this inventory makes it possible, in the event of theft, to provide the judicial authorities with documents that identify it and, in the event of permanent removal to another Member State of the European Community, to demand its return, pursuant to Directive 93/7/EEC.</p> <p>Flemish community With a view to their protection, the list includes individual objects and collections.</p> <p>The photo library, an indicative photographic inventory of national artistic heritage Managed by the Royal Institute for Artistic Heritage (IRPA/KIK).</p> <p>Inventory of artistic heritage of the regions Managed by the Public Social Action Centres (CPAS), in two major inventory campaigns in the 1940s and 1970s (thematic inventories which have since been discontinued). Accessible at http://www.kikirpa.be/www2/Site_irpa/En/Doc/Photonline.htm</p>
Database on goods of religious value	<p>Photographic repertory of movable objects belonging to places of worship in Belgium Managed by IRPA/KIK as the Church does not have a curator.</p>

<i>BELGIUM – BELGIQUE</i>	
	<p>Belgium is the only country in the world that has a complete photographic record of its religious heritage.</p> <p style="text-align: center;">Inventory of the heritage of convents (private property)</p> <p>Managed by IRPA/KIK until a certain time.</p> <p>Both repertoires are accessible on the Internet: http://www.kikirpa.be/www2/Site_irpa/En/Doc/Photonline.htm</p>
Database on private collections	No.
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p style="text-align: center;">ARTIST (Art Information System) national image database</p> <p>Managed by the Art Research Team (ART) which is part of the General Directorate of the criminal investigation branch of the Federal Police – Directorate of Crime against Property.</p> <p>Prepares an inventory of all works of art and cultural goods that have been stolen in Belgium (with the exception of jewellery).</p> <p>Not accessible to the public via the Internet.</p>

<i>BULGARIA – BULGARIE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural heritage shall be:</p> <ol style="list-style-type: none"> 1. Archaeological sites and reserves, located above ground, underground and underwater; 2. historical sites and complexes; 3. architectural sites and complexes; 4. ethnographic sites and complexes; 5. models of park art and landscape architecture; 6. natural valuables (models); 7. industrial heritage; 8. works of art and applied arts; 9. folk crafts; 10. documentary heritage; 11. audiovisual heritage; 12. oral tradition and tongue; 13. works of literature and fiction; 14. customs, rituals, festivities, rites and beliefs; 15. music, songs and dances; 16. folk music; 17. cultural ethnological traditions; 18. folk games and sports. <p>Article 6 Law on the cultural heritage of 13 March 2009 (entry into force on 10 April.2009) [Non official translation, transmitted by one of our contacts in Bulgaria]</p> <p>Cultural goods</p> <p>(1) Cultural goods, whether tangible or intangible, which provide evidence of human presence and activity, or of a natural fact or phenomenon, which is of importance for the person, community or society and has scientific or cultural value.</p> <p>(2) These criteria will apply similarly where the cultural goods are of importance for the Bulgarian Orthodox Church .</p> <p>(3) Coins and similar items dated after 1800, which have no value or significance for human history shall not be deemed to be cultural valuables within the meaning of this law.</p> <p>Art. 7 Law on the cultural heritage of 13 March 2009 (entry into force on 10 April.2009) [Non official translation, transmitted by one of our contacts in Bulgaria]</p> <p>Movable cultural goods</p> <p>Movable cultural goods are classified according to the following criteria::</p> <ol style="list-style-type: none"> 1. their belonging to a certain historical period; 2. the scientific and cultural area, to which they refer. <p>Art. 51 Law on the cultural heritage of 13 March 2009 (entry into force on 10 April.2009) [Non official translation, transmitted by one of our contacts in</p>

<i>BULGARIA – BULGARIE</i>	
	<p>Bulgaria]</p> <p>According to their belonging to a particular historical period, movable cultural goods shall be: pre-historic, antique, mediaeval, of the Renaissance, of the modern and most-modern time.</p> <p>Art. 52 Law on the cultural heritage of 13 March 2009 (entry into force on 10 April.2009) [Non official translation, transmitted by one of our contacts in Bulgaria]</p> <p>Cultural goods with the statuts of ‘national wealth’</p> <p>(1) In accordance with its scientific and cultural value, movable cultural goods may acquire the status of national wealth.</p> <p>(2) National wealth shall be a cultural object with exceptional significance for science, culture, nature or technical progress, whose destruction, damage or loss would be an irreparable loss for society and which responds to at least one of the following criteria:</p> <ol style="list-style-type: none"> 1. it is a unique, characteristic or rare example of human activity or creative work for the period to which belongs; 2. is proved to be genuine and to have significant scientific, and artistic value; 3. is related, or represents proof of ideas, beliefs, events or prominent personalities, representing a significant impact on the development of society. <p>Art. 54 Law on the cultural heritage of 13 March 2009 (entry into force on 10 April.2009) [Non official translation, transmitted by one of our contact in Bulgaria]</p>
Legal definition of theft of cultural goods	No
Legal definition of handling	<p>Receiving objects</p> <p>(1) A person who for the purpose of procuring material benefit for himself or for another conceals, acquires or assists with the appropriation of movable properties of another, where he knows or supposes that these have been obtained by somebody through crime or another act which constitutes a danger to society, shall be punished by for a term of imprisonment of up to five years, but with a punishment which is not greater than the one provided for the crime itself.</p> <p>(2) The punishment shall be imprisonment for</p>

<i>BULGARIA – BULGARIE</i>	
	<p>between three and ten years and a fine of between 1,000 and 3,000 BGN, if the receiving is:</p> <ol style="list-style-type: none"> 1. of a significant amount; 2. of articles set under special regime; 3. conducted on an habitual basis; 4. repeated or constitutes dangerous recidivism. <p>Art. 215 Criminal code²</p> <p style="text-align: center;">Receiving of cultural valuables</p> <p>(1) A person who discovers a cultural monument or other valuable historical artefact and weeks consciously avoids notifying the authorities within two weeks of the find, shall be punished a term of imprisonment of up to one year or by a fine from ranging from 500 to 1,000 BGN.</p> <p>(2) Where the cultural monument is of particularly high scientific or artistic value, the punishment shall be for a term of imprisonment of up to two years or a fine ranging from 1,000 to 5,000 BGN.</p> <p>Art. 278 A Criminal code³</p>
Legal definition of good faith or due diligence	<p style="text-align: center;">Good faith</p> <p>(1) The possessor shall be deemed to act in good faith when he holds the goods on a legal basis fit to make him an owner, without knowing that the transferor is not an owner or that there is a defect in the form prescribed by the law. It is sufficient that the good faith exists at the time of the legal transaction.</p> <p>(2) Good faith shall be presumed until otherwise proven.</p> <p>(3) Where possession has been handed over on the basis of a preliminary contract concluded with the property owner, the possessor shall have the rights under Articles 71 and 72.</p> <p>Art. 70 Ownership act⁴</p>
Definition of due diligence in the code of ethics	(information not provided)
Operational tools	
Administration dealing with illicit traffic	<p>Ministry of Culture DG Inspectorate for Protection of Cultural Heritage Movable heritage Department</p>

² Translation from the web <http://www.customs.bg/en/page/173>

³ Translation from the web <http://www.customs.bg/en/page/173>

⁴ Translation from the web <http://solicitorbulgaria.com/index.php/bulgarian-ownership-act>

<i>BULGARIA – BULGARIE</i>	
Specialized Police Unit	There are two specialized units within the police force at the national level. One is within the Criminal Police Department and the other is within the Department for Combating Organized Crime. Each regional division has an officer responsible for matters linked to cultural goods, in addition to his/her other duties.
Specialized Customs Unit	Responsibility for matters concerning cultural goods lies with the Tariff Policy Department.
<i>Technical tools</i>	
Database on cultural goods and national treasures	Register of “identified” cultural goods. Managed at the national level by the Ministry of Culture. Art. 102 of the law of 13 March 2009. Not accessible.
Database on goods of religious value	No
Database on private collections	The law on heritage provides for the registration of all private collections and the obligation to keep an inventory. Art. 110 of the law of 13 March 2009.
Database on stolen cultural objects / displaced / unlawfully possessed (database’s name, name of the institution in charge, link)	Project under way, being carried out by the police.

<i>CYPRUS – CHYPRE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Ancient monument means (a) any object, building or site specified in the First or Second Schedule to this Law ; (b) any other object, building or site in respect of which the Council of Ministers has made an Order under section 6 of this Law, and shall include any part of the adjoining land which may be required for the purpose of fencing, covering, or otherwise preserving the monument from injury, as also the means of access to such monument Art. 2 § 1 Antiquities Law⁵</p> <p>The Council of Ministers may, on the recommendation of the Director, from time to time by Order in the Gazette (a) declare any object, building or site which he considers to be of public interest by reason of the historic, architectural, traditional, artistic or archaeological interest attaching thereto to be an ancient monument and shall at the same time declare whether such monument shall be added to the First or to the Second Schedule to this Law, as the case may be [...] Art. 6 § 1 Antiquities Law⁶</p> <p>Antiquity means any object, whether movable or part of immovable property which is a work of architecture, sculpture, graphic art, painting, or generally any form of art which has through human effort been produced, sculptured, inscribed, or painted or generally made in Cyprus earlier than the year 1850 A.D. in any manner whatsoever and from any material and which has been found, discovered or excavated in Cyprus or recovered from the sea within the territorial waters of Cyprus and includes any such object or part thereof which has at a later date been added, reconstructed, readjusted or replaced subsequently. Provided that for works of ecclesiastical or folk art of great archaeological or artistic, or historical value, the year 1940 A.D. shall be taken into account in place of the year 1850 A.D. irrespective of the place of manufacture or origin. Art. 2 § 1 Antiquities Law⁷</p>

⁵ Idem.

⁵ Legal texts found in the UNESCO database as well as sent by Mr Wiesner, Ministry of

⁷ Idem.

<i>CYPRUS – CHYPRE</i>	
Legal definition of theft of cultural goods	No
Legal definition of handling	<p>Handling</p> <p>Any person who receives or possesses an object in the knowledge that it has been stolen or obtained in any manner that constitutes the commission of an offence or a crime is guilty of a criminal offence of the same degree and is punished:</p> <p>(a) in the event of a crime, 5-year prison sentence (b) in the event of an offence, 2-year prison sentence. Art. 306 of the Criminal Code (Chap. 155).</p>
Legal definition of good faith or due diligence	<p>With regard to good faith, the principle of <i>equity</i> is applied.</p> <p>Concerning due diligence, the 1995 UNIDROIT Convention came into force on 1 September 2004.</p>
Definition of due diligence in the code of ethics	No
<i>Operational tools</i>	
Administration dealing with illicit traffic	Department of Antiquities, Ministry of Communications and Works
Specialized Police Unit	Cultural Property Office
Specialized Customs Unit	No
<i>Technical tools</i>	
Database on cultural goods and national treasures	<p>Cyprus Archaeological Digitisation Program (CADiP)</p> <p>Under construction. A project being carried out by the Department of Antiquities and the private company H.S. Data Ltd and financed by the Republic of Cyprus and the Norwegian Financial Mechanism (www.eeagrants.org). The cultural goods concerned are: (a) the cultural goods in the First and Second Tables annexed to the law on antiquities as well as the cultural goods of territories where archaeological research is performed, territories controlled or requisitioned by the Department of Antiquities; (b) the movable cultural property found in the Department of Paphos until 1975 which is currently in Paphos Archaeological Museum.</p> <p>http://gis.da.mcw.gov.cy/cadip/</p>
Database on goods of religious value	<p>Database of the free part of the Church of Cyprus</p> <p>All immovable and movable religious property from the</p>

<i>CYPRUS – CHYPRE</i>	
	free part. The database is accessible with the authorization of each territorially competent metropolis.
Database on private collections	(information not provided)
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database of stolen cultural goods Managed by the police.</p> <p>Database of stolen cultural goods and cultural goods displaced or plundered from the occupied part Managed by the Department of Antiquities.</p> <p>Database of religious items from the occupied part Managed by the Church of Cyprus. It includes photographs of immovable and movable objects, as well as a search engine. It is under construction.</p>

<i>CZECH REPUBLIC – REPUBLIQUE TCHEQUE</i>	
Legislation ⁸	
Legal definition of cultural good and / or national treasure	<p>Cultural object “Cultural object“ shall mean an object which (a) forms part of the national cultural treasure and at the same time 1.belongs to at least one of the categories listed in the Annex 1 of this Act, 2.forms part of public collections of museum character registered in the inventories of museums, galleries, libraries or archives, or 3. forms part of the inventories of churches or religious societies, or of the facilities thereof, or (b) forms part of the national cultural treasure and at the same time conforms to the definition of a cultural object under the laws and regulations of the Member State. Section 1 § 2 Act No 101/2001 of 22 February 2001 on the return of unlawfully exported cultural objects</p> <p>National cultural treasure “National cultural treasure of the Czech Republic“ consists of objects or sets of objects which are defined by special Acts as cultural monuments and national cultural national monuments , as collections of museum character and individual collection objects , archival records and documents , or objects of cultural value, provided that the above mentioned objects meet the conditions required for their registration as cultural monuments under a special Act 2. Section (2) 2 Act No 101/2001 of 22 February 2001 on the return of unlawfully exported cultural objects</p>
Legal definition of theft of cultural goods	(information not provided)
Legal definition of handling	(information not provided)
Legal definition of good faith or due diligence	(information not provided)
Definition of due diligence in the code of ethics	(information not provided)

⁸ Legal texts found in the UNESCO database as well as sent by Mr Wiesner, Ministry of culture of the Czech Republic.

<i>CZECH REPUBLIC – REPUBLIQUE TCHEQUE</i>	
Operational tools	
Administration dealing with illicit traffic	Ministry of Culture Department of Monument Conservation Department of Conservation of the Movable Cultural Heritage, Museums and Galleries http://www.mkcr.cz/en/ Ministry of Interior in cases of archival documents http://www.mkcr.cz/en/kulturni-dedictvi/default.htm
Specialized Police Unit	(information not provided)
Specialized Customs Unit	(information not provided)
Technical tools	
Database on cultural goods and national treasures	<p>Database on cultural goods Run by the Ministry of Culture http://ces.mkcr.cz/ces (the link is unfortunately not valid)</p> <p>Database on art works Run by the Police http://aplikace.mvcr.cz/ieud/index.php (access is forbidden)</p>
Database on goods of religious value	(information not provided)
Database on private collections	(information not provided)
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	(information not provided) see also answer above about the databases

<i>DENMARK – DANEMARK</i>	
<i>Legislation⁹</i>	
Legal definition of cultural good and / or national treasure	<p>Cultural goods Act No 332 of 4 June 1986 on Protection of Cultural Assets in Denmark and the Executive Order No 404 of 11 June 1987 on Protection of Cultural Assets in Denmark shall apply to the following cultural assets which are not publicly owned (section 2):</p> <ol style="list-style-type: none"> 1. cultural objects from the period before 1660, 2. cultural objects of a value of DKK 150,000 or more and older than 50 years. <p>Subsection 2. Regardless of Subsection 1, item 2, photographs of a value of DKK 30,000 or more shall be subject to the Act. Subsection 3. The Act shall not apply to coins and medals. Subsection 4. On the recommendation of the Cultural Assets Commission, cf. Section 5, the Minister for Cultural Affairs may decide that the Act be applied to a cultural object not covered by the Act, where special circumstances require this.</p>
Legal definition of theft of cultural goods	<p>Theft Act 1235 of 26 October 2010, chapter 28 (Translation in English or in French not found, only in Danish)</p>
Legal definition of handling	<p>Handling Act 1235 of 26 October 2010, chapter 28 (Translation in English or in French not found, only in Danish)</p>
Legal definition of good faith or due diligence	<p>Good faith (information not provided) Concerning due diligence, 1995 UNIDROIT Convention entered into force on 1 January 2011.</p>
Definition of due diligence in the code of ethics	(information not provided)
<i>Operational tools</i>	
Administration dealing with illicit traffic	<p>Cultural Assets Commission The Cultural Assets Commission consists of the State Antiquary, the Director of the National Archives, the Director of the Royal Museum of Fine Arts, the Chief Librarian at the</p>

⁹ Legal texts have been found on the UNESCO database and confirmed and completed by Mr Navntoft, Ministry of Culture.

<i>DENMARK – DANEMARK</i>	
	Royal Library as well as the Chairman of the National Council of Museums www.kulturvaerdier.dk
Specialized Police Unit	We were informed that there are policemen who are educated and knowledgeable in art but it was not clear if they form part of a special unit
Specialized Customs Unit	(information not provided)
<i>Technical tools</i>	
Database on cultural goods and national treasures	http://www.kulturvaerdier.dk/5032/
Database on goods of religious value	(information not provided)
Database on private collections	(information not provided)
Database on stolen cultural objects / displaced/ unlawfully possessed (database's name, name of the institution in charge, link)	(information not provided)

<i>ESTONIA – ESTONIE</i> ¹⁰	
Legislation	
Legal definition of cultural good and / or national treasure	<p>A monument is a movable or immovable, a part thereof, a body of things or an integral group of structures under state protection which is of historical, archaeological, ethnographic, urban developmental, architectural, artistic or scientific value or of value in terms of religious history or of other cultural value and due to which it is designated as a monument pursuant to the procedure provided for in this Act. Art. 2, Heritage Conservation Act, 27 February 2002</p> <p>“Cultural object” means an object which is classified, before its unlawful removal from the territory of a Member State, among the national treasures possessing artistic, historic or archaeological value and which belongs to one of the categories established on the basis of § 3 of this Act. A cultural object is also an object or set of objects which does not belong to one of these categories but which forms an integral part of a collection defined as public in accordance with the legislation of a Member State, the collection of a local or regional museum, archives or library of a Member State, a collection significantly financed by a Member State, or the inventory of an ecclesiastical institution. Art. 2(1), Act on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State of the European Union, 11 June 2003</p> <p>(1) Public records are records created or received as a result of the activities of state and local government bodies and agencies, and legal persons in public law, and records of legal persons in private law and records of natural persons created or received in the course of performance of public duties provided by law or on the basis thereof. (2) Public records are part of the national cultural heritage. Art. 5, Archives Act, 25 March 1998</p> <p>Documents of historical value and of great cultural value located in public libraries shall be recorded and stored under the conditions and pursuant to the procedure established in legislation with regard to cultural monuments. Art. 13(3), Public Libraries Act, 12 November 1998</p>
Legal definition of theft of cultural goods	<p>Larceny taking away movable property of another with the intention of</p>

¹⁰ Source of the translations into English: www.legaltext.ee (official website for English translations of Estonian legislation). The site is maintained by the Estonian Legal Language Center (in Estonian *Eesti Õiguskeele Keskus*). The Ministry of Justice of the Republic of Estonia provides a link to the aforementioned site on its official website (www.just.ee).

<i>ESTONIA – ESTONIE</i> ¹⁰	
	<p>illegal appropriation. Art. 199(1), Penal Code, 6 June 2001</p> <p>Same act, if [...] the object of the act is an object of great scientific, cultural or historical significance [...] Art. 199(2)(3), Penal Code, 6 June 2001</p>
Legal definition of handling	<p>Handling Acquisition, storage or marketing of property received through commission of a criminal offence [...] Art. 202(1), Penal Code, 6 June 2001</p>
Legal definition of good faith or due diligence	<p>Good faith There is no definition of good faith Art. 32 Principle of good faith in mutual relations, General Part of the Civil Code Act, 27 March 2002 Art. 138 Principle of good faith, General Part of the Civil Code Act, 27 March 2002</p>
Definition of due diligence in the code of ethics	<p>No The ICOM Code of Ethics is broadly considered.</p>
<i>Operational tools</i>	
Administration dealing with illicit traffic	<p>National Heritage Board www.muinas.ee</p>
Specialized Police Unit	No
Specialized Customs Unit	No
<i>Technical tools</i>	
Database on cultural goods and national treasures	<p>Database on cultural monuments National Heritage Board http://register.muinas.ee</p> <p>Information System of Estonian Museums Database under construction www.muuseum.ee/en/politika</p> <p>Information system of the National Archives of Estonia http://ais.ra.ee</p> <p>Archives Register http://arhiiviregister.ra.ee</p> <p>Information system of the Estonian Film Archives www.filmi.arhiiv.ee/fis</p>
Database on goods	No

<i>ESTONIA – ESTONIE¹⁰</i>	
of religious value	
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database on stolen objects / displaced / unlawfully possessed, including cultural objects Run by the Police and Border Guard Board No public access</p> <p>Database on stolen cultural monuments Run by the National Heritage Board http://register.muinas.ee/?menuID=stolenmonument</p>

<i>FINLAND – FINLANDE</i>	
Legislation ¹¹	
Legal definition of cultural good and / or national treasure	<p>Cultural goods Cultural objects that are valuable scientifically, artistically and historically Section 1 of the Act on Restrictions to the Export of Cultural Objects 115/1999</p> <p>National treasure The concept of a national treasure has not been defined specifically in the national legislation. Sections 1, 2 and 4 of the Act 115/1999 include restrictions on circulation.</p>
Legal definition of theft of cultural goods	No (But the Finnish Criminal Code includes the crime of theft in s. 1 of 767/1990 and chapter 46 (39/1889, 769/1990) sections 4 and 5 deal with smuggling)
Legal definition of handling of stolen goods	(information not provided)
Legal definition of good faith or due diligence	No definition of good faith . Concerning due diligence , Convention UNIDROIT 1995 entered into force on 1 December 1999.
Definition of due diligence in the code of ethics	The ICOM Code of Ethics is followed.
Operational tools	
Administration dealing with illicit traffic	National Board of Antiquities Ministry of Education and Culture The National Gallery
Specialized Police Unit	No
Specialized Customs Unit	No
Technical tools	
Database on cultural goods and national treasures	Database on cultural objects All objects in the collections of professionally managed museums, libraries and archives in Finland have been appropriately inventoried and catalogued, and the registers are kept up-to-date.

¹¹ Legal texts concerning heritage were found on the UNESCO database and sent by Mrs Tahtiner, lawyer at the National Board of Antiquities. Information on penal legislation was sent by Mrs Lampela, Finnish Customs.

<i>FINLAND – FINLANDE</i>	
	<p>Database on archaeological heritage The protected sites have been listed and the list of underwater heritage has been further elaborated. The National Board of Antiquities has also catalogued buildings of cultural heritage.</p> <p>Database on national treasures No. Being registered is not a prerequisite for the return of unlawfully exported cultural object.</p>
Database on goods of religious value	(information not provided)
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database on stolen goods run by the police No public access</p> <p>The National Board of Antiquities intends to create another database (no further information).</p>

<i>FRANCE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural heritage Within the meaning of this Code, heritage encompasses all publicly or privately owned immovable or movable property of historic, artistic, archaeological, aesthetic, scientific or technical interest. Art. L. 1 of the Heritage Code.</p> <p>Cultural goods There is no uniformity under French law. With regard to controlling movement, there is a list of categories of goods, with differing value and age thresholds depending on the goods at issue. Decree No. 93-124 of 29 January 1993 implementing the law of 31 December 1992. With regard to the State’s pre-emptive right, the categories are the same as above, except that no value or age thresholds are set. In the event of armed conflict, the definition set out in the 1954 Convention for the Protection of Cultural Property in the event of Armed Conflict applies. Law No. 57-112 of 4 February 1957 authorizing approval of the Convention, Decree No. 620-1131 of 18 October 1960 publishing the Convention.</p> <p>National treasures Goods belonging to public collections and the collections of National French museums, goods classified under the provisions relating to historic monuments and archives, and other objects which are of major historical, artistic or archaeological interest to the national heritage. Art. L. 111-1 of the Heritage Code.</p>
<p>Legal definition of theft of cultural goods</p>	<p>The theft of cultural goods is an aggravating circumstance. If the theft involves:</p> <ol style="list-style-type: none"> 1. A movable objet classified or registered under the provisions of the Heritage Code or a document from a private archive classified pursuant to the provisions of the same Code; 2. An archaeological discovery made in the course of excavation or by chance; 3. Movable property which is in the public domain or which is displayed, held or stored, even temporarily, either in a National French museum, library, media library or archive service, or in a place dependent on a public or private person performing a role of public interest, or in a place of worship. <p>Art. 311(4) No. 2 of the Criminal Code.</p>
<p>Legal definition</p>	<p>Receiving</p>

<i>FRANCE</i>	
of handling	<p>Receiving is the concealment, retention or transfer a thing, or acting as an intermediary in its transfer, knowing that that thing was obtained by criminal activity [felony or misdemeanour]. Receiving is also the act of knowingly benefiting in any manner from the product of criminal activity. Receiving is punishable by five years' imprisonment and a fine of €375,000. Art. 321-1 CP¹²</p> <p>Aggravated receiving Receiving is punished by ten years' imprisonment and a fine of €750,000: 1° where it is committed habitually or by using the facilities conferred by the exercise of trade or profession; 2° where it was committed by an organized group. Art. 321-2 CP¹³</p>
Legal definition of good faith or due diligence	<p>Good faith In the case of chattels, possession is equivalent to title. Art. 2276 al. 1 C. civ.¹⁴</p> <p>In order to be legally valid, possession must be free of irregularities. It must be peaceful (non violent), public (known and accessible to all), continuous (without interruption), unequivocal (absence of doubt regarding the title by virtue of which the possessor holds the property). An acquirer is presumed to be acting in good faith when, at the time of taking possession following acquisition, he or she believes himself or herself the owner and acts accordingly.</p>
Definition of due diligence in the code of ethics	No
<i>Operational tools</i>	
Administration dealing with illicit traffic	Ministry of Culture
Specialized Police Unit	Central Office for the Fight against Traffic in Cultural Goods (OCBC)
Specialized Customs Unit	No

¹² This translation is a slightly modified version of one which is to be found on Legifrance <http://195.83.177.9/code/liste.phtml?lang=uk&c=33>

¹³ Idem.

¹⁴ This translation is a slightly modified version of one which is to be found on Legifrance, under the old Art. 2279 <http://195.83.177.9/code/liste.phtml?lang=uk&c=22>

<i>FRANCE</i>	
Technical tools	
Database on cultural goods and national treasures	<p>General inventory of cultural heritage Managed by the Ministry of Culture. Allows access to the Palissy (movable heritage) and Mérimée (architectural heritage) databases. http://www.inventory.culture.gouv.fr/</p>
Database on goods of religious value	No
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>TREIMA (<i>Thésaurus de recherche électronique et d'imagerie en matière artistique</i>) database. Managed by the OCBC. National photo library of stolen cultural objects. No public access.</p> <p>Register of stolen works of art Managed by the Ministry of the Interior. http://www.avisderecherches.interieur.gouv.fr/osvnaviguer.asp</p> <p>Database of stolen books Managed by International League of Antiquarian Booksellers (ILAB). http://www.stolen-book.org/</p>

<i>GERMANY – ALLEMAGNE</i>	
Legislation	
Legal definition of cultural good and / or national treasure	<p>Cultural objects of national importance Works of art and other cultural objects - including bibliographic works in libraries - whose departure from the area of application of this Act would constitute a significant loss for German cultural heritage shall be entered in a „Verzeichnis national werttheftlen Kulturgutes“ [register of cultural objects of national importance] in the Land in which they are located upon the entry into force of this Act. Additions shall be made to the register as necessary. § 1 al. 1 <i>KultgSchG (Kulturgutschutzgesetz)</i>¹⁵</p> <p>Movable and immovable cultural valuables § 10 g al. 1 n^o2 <i>EstG (Einkommenssteuergesetz)</i> [No translation available]</p>
Legal definition of theft of cultural goods	No
Legal definition of handling	<p>Handling (1) Whosoever in order to enrich himself or a third person, buys, otherwise procures for himself or a third person, disposes of, or assists in disposing of property that another has stolen or otherwise acquired by an unlawful act directed against the property of another shall be liable to imprisonment of not more than five years or a fine. (2) Section 247 and section 248a shall apply <i>mutatis mutandis</i>. (3) Attempt shall be punishable. § 259 al. 1 <i>StGB</i>¹⁶</p>
Legal definition of good faith or due diligence	<p>Definition of <i>a centario</i> of good faith (2) The acquirer is not in good faith if he is aware, or as a result of gross negligence he is not aware, that the thing does not belong to the alienor. § 932 al. 2 <i>BGB</i>¹⁷</p> <p>No legal definition of the concept of “due diligence” but a legal definition of “negligence” (2) A person acts negligently if he fails to exercise reasonable care. § 276 al. 2 <i>BGB</i>¹⁸</p>
Definitio	No

¹⁵ http://www.gesetze-im-internet.de/englisch_kultgschg/englisch_kultgschg.html#KultgSchGengl_000P1

¹⁶ http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html#StGBengl_000P259

¹⁷ http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p3614

¹⁸ http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p0817

<i>GERMANY – ALLEMAGNE</i>	
n of due diligence in the code of ethics	<p>Reference to the ICOM Code in the “Standards for Museums” („<i>Standards für Museen</i>“, 2005) of the German Museums Association (<i>Deutscher Museumsbund</i>; in collaboration with the German national ICOM committee) under “5. Collecting” (5. Sammeln) Accessible at http://www.museumbund.de/de/das_museum/ethik_standards/standards_fuer_museen/</p> <p>There is no reference to the UNESCO Code of Ethics in the Code of Conduct (<i>Verhaltenskodex</i>) of the Federal Association of German Art and Antiques Dealers (<i>Bundesverband des Deutschen Kunst- und Antiquitätenhandels; BDKA</i>), although there is a declaration to refrain from importing, exporting or trading cultural goods of dubious origin. Accessible at http://www.bdka.de/de/id150.htm</p>
<i>Operational tools</i>	
Administration dealing with illicit traffic	<p>At the Federal level Koordinierungsstelle Magdeburg Eine Einrichtung des Bundes und der Länder für Kulturgutdokumentation und Kulturgutverluste beim Kultusministerium des Landes Sachsen-Anhalt Bundesbeauftragter für Kultur und Medien, BKM</p> <p>At the level of the Länder Kulturgutschutzbehörden / Zentralstellen</p>
Specialized Police Unit	<p>At the federal level Specialized section of the Federal Criminal Police (Bundeskriminalamt, BKA) for crimes involving cultural property Unit “SO41-24 Kunst/art crime unit” = INTERPOL Germany</p> <p>At the level of the Länder In general, there are no specialized units in the Criminal Police Departments at the level of the Länder (<i>Landeskriminalämter; LKA</i>), except in Berlin (LKA section 454), Bavaria (LKA section 6) and Hessen (LKA section 41).</p>
Specialized Customs Unit	No
<i>Technical tools</i>	
Database on cultural goods and national treasures	<p>Inventory of cultural property of national significance (<i>Verzeichnis national wertheftigen Kulturgutes</i>) Inventory of archives of national significance (<i>Verzeichnis national wertheftiger Archive</i>) both accessible at: www.kulturgutschutz-deutschland.de</p>
Database on goods of religious	No

<i>GERMANY – ALLEMAGNE</i>	
value	
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Lostart-Register (cultural goods stolen as a result of the war, or otherwise, during World War II) Managed by Koordinierungsstelle Magdeburg - Eine Einrichtung des Bundes und der Länder für Kulturgutdokumentation und Kulturgutverluste beim Kultusministerium des Landes Sachsen-Anhalt. www.lostart.de</p> <p>National database of the police Managed by the Federal Criminal Police (Bundeskriminalamt, BKA). Not accessible to the public</p>

<i>GREECE – GRÈCE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural objects shall mean testimonies of the existence and the individual and collective creativity of humankind Art. 2a Law 3028/2002¹⁹</p> <p>National treasure National legislation does not contain the term “national treasure”. The term used is “monuments”. Monuments shall mean cultural objects which constitute material testimonies and belong to the cultural heritage of the country and which deserve special protection on the basis of the following distinctions :</p> <p>(i) “Ancient monuments or antiquities” shall mean all cultural objects dating back to prehistoric, ancient, Byzantine and post-Byzantine times up to 1830, subject to the provisions of article 20. Archaeological monuments shall also include caves and paleontological remains, for which there is evidence that they are related to human existence</p> <p>(ii) “Recent monuments” shall mean cultural objects dating after 1830, which deserve protection due to their historical, artistic or scientific significance, in accordance with the distinctions of article 20.</p> <p>(iii) “Immovable monuments” shall mean monuments which have been attached to, and remain on the ground or on the seabed or on the bed of lakes or rivers, as well as monuments which are found on the ground or on the seabed or on the bed of lakes or rivers and cannot be removed without damage to their value as testimonies. Immovable monuments shall also include installations, structures and the decorative and other elements, which form an integral part of the monuments, as well as their surroundings.</p> <p>(iv) “Movable monuments” shall mean monuments, which are not immovable. Art. 2b Law 3028/2002²⁰</p> <p>Movable monuments shall include</p> <p>(a) monuments dating up to 1453;</p> <p>(b) monuments dating after 1453 and up to 1830 which constitute finds from excavations or other archaeological research, or have been removed from immovable monuments, as well as icons and other religious objects used for worship, dating from the same period [...]</p> <p>Art. 20 Law 3028/2002²¹</p>

¹⁹ Translation found on <http://www.law-archaeology.gr/ClientFiles/downloads/3028.eng.pdf>

<i>GREECE – GRÈCE</i>	
<p>Legal definition of theft of cultural goods</p>	<p>Aggravated theft The taking (i) of an object of worship located in a place of worship, (ii) an object of scientific, artistic, archaeological or historical importance located in a collection on public display, in a public building or public place. Aggravated theft is punished with a prison sentence of up to 10 years. Art. 374 of the Criminal Code.</p> <p>Theft of monuments The theft of a monument of especially high value or a monument removed from a historic building or an excavation zone of a museum, a place of storage of archaeological objects or a place intended for keeping collections. The theft of monuments is punished with a prison sentence of up to 10 years. Art. 53 of law 3028/2002</p> <p>Aggravating circumstances: commission in an organized group or on an habitual basis or if the perpetrator is a professional thief. In these cases, the applicable sentence is imprisonment.</p>
<p>Legal definition of handling</p>	<p>Handling The concealment, purchase, receipt as security or the receipt in any other manner of an object obtained by means of an offence, or the transfer of custody of said object or complicity in such a transfer or arranging the custody of the said object with others. Handling is punished with a prison sentence (10 days to 5 years). Art. 394 of the Criminal Code</p> <p>Receiving and disposing of monuments constituting products of crime The act of receiving and disposing of products of crime (art. 394 paragraph 1 of Penal Code) shall be punished by a temporary term not exceeding ten (10) years, if its object is a monument of especially high value and the offender knew that it was the product of an indictable offense. If the offender commits the act mentioned in the previous section by profession or habitually, a term of imprisonment shall be imposed. Art. 55 Law 3028/2002²²</p>
<p>Legal definition of good faith or due</p>	<p>Good faith A person who acquires is in bad faith if he knows or he ignores</p>

²⁰ Idem.

²¹ Idem.

²² Idem.

<i>GREECE – GRÈCE</i>	
diligence	<p>out of serious negligence that the chattel does not belong to the property of the transferor Art. 1037 Civil Code</p> <p>Due diligence</p> <p>§6. Collectors shall be prohibited from acquiring cultural objects suspected of deriving from theft, illegal excavation or other illegal act or which have been acquired or exported in violation of the legislation of the country of origin and shall inform the Service of any such offer without undue delay Art. 31 Law 3028/2002²³</p> <p>§6. Antique dealers and merchants of recent movable monuments shall be prohibited from acquiring or trading cultural objects suspected of deriving from theft, illegal excavation or other illegal act or which have been acquired or exported in violation of the legislation of the country of origin and shall inform the Service of any such offer without undue delay Art. 32 Law 3028/2002²⁴</p> <p>§9. Recognized museums shall be prohibited from acquiring or accepting as loan or trust cultural objects suspected of deriving from theft, illegal excavation or other illegal act or which have been acquired or exported in violation of the legislation of the country of origin and shall inform the Service of any such offer without undue delay. Art. 45 Law 3028/2002²⁵</p> <p>Concerning due diligence, the 1995 UNIDROIT Convention entered into force on 1 January 2008.</p>
Definition of due diligence in the code of ethics	<p>The trade in cultural goods protected by the law on antiquities as well as the direct or indirect facilitation of trafficking in such goods are activities that are incompatible with the duties of the curator of antiquities and works of art. The curator must cooperate with the authorities responsible for preventing the illicit trade and trafficking in items of cultural heritage. Art. 29 of the Code of Ethics of Conservators of Antiquities and Works of Art</p>
<i>Operational tools</i>	
Administration dealing with illicit traffic	Directorate for Documentation and Protection of Cultural Goods

²³ Idem.

²⁴ Idem.

²⁵ Idem.

<i>GREECE – GRÈCE</i>	
	Ministry of Culture and Tourism.
Specialized Police Unit	Department for Combating the Trafficking in Antiquities
Specialized Customs Unit	No
<i>Technical tools</i>	
Database on cultural goods and national treasures	<p>Database of the National Archive of Monuments This database contains all the cultural goods classified as monuments and is managed by the Directorate of the National Archive of Monuments of the Ministry of Culture and Tourism. http://nam.culture.gr/portal/page/portal/deam</p> <p>Database of Greek archaeological sites and monuments Managed by the Ministry of Culture and Tourism. http://odysseus.culture.gr/index_en.html</p>
Database on goods of religious value	<p>Digital map of cultural treasures of the Church of Greece Collection of monuments (immovable and movable) of great cultural importance belonging to the Church of Greece. http://art.solidarity.gr</p> <p>Mount Athos database Religious objects of Simonopetra Monastery. http://www.athosmemory.com/</p>
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database Managed by the Directorate for Protection and Documentation of Cultural Property. It contains (a) movable monuments that have been stolen or misappropriated, with photos; (b) illegal excavations or removals, with photos; (c) movable monuments that have been seized, with photos; (d) persons involved in the illegal acquisition and trafficking in movable monuments; (e) persons in possession of metal detectors or other equipment for searching the subsoil or the beds of the sea, rivers or lakes.</p>

<i>HUNGARY – HONGRIE</i>	
Legislation ²⁶	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural goods Cultural goods (cultural assets) are outstanding and typical objects, images, sound recordings and written memories and other proof of the origin and development of lifeless and live nature, mankind, the Hungarian nation and the history of Hungary, as well as pieces of arts. Art. 7 §4 of the Act No 64/2001 on the protection of cultural heritage</p> <p>National treasures The term which is used in Community legislation refers to all cultural goods of more than fifty years of age being in Hungary or those which are protected as cultural goods. Categories belonging to “national treasure” are:</p> <ul style="list-style-type: none"> - items of public collections (museums, libraries and archives) - movable accessories of scheduled monuments (furnishings, equipment) - archaeological findings (from excavations) - objects declared protected (listed) by the National Office of Cultural Heritage - cultural goods (according to National legislation) older than 50 years <p>Archaeological cultural goods, which are protected by legal acts, should be State property and their placement into public collections is obligatory</p>
<p>Legal definition of theft of cultural goods</p>	<p>Theft of cultural goods</p> <p>(1) The person who takes something from somebody else in order to unlawfully appropriate it, commits theft. [...]</p> <p>(4) The punishment shall be felony term of imprisonment of up to three years, if</p> <p>(a) the theft is committed in respect of a greater value, (b) the theft involves a lesser value and</p> <ol style="list-style-type: none"> 1. it is committed in the manner defined in Paragraphs a)-d) of Subsection (2), 2. involves cultural goods, 3. involves religious objects or consecrated objects used for religious rights, taken from a place considered consecrated grounds, 4. involves objects placed in memory of or with the dead in cemeteries and other burial sites. [...] <p>Section 316 of the Hungarian Criminal Code</p> <p>See also Section 216 A (Vandalism of Cultural Goods) and Section 216 B (Illegal Use of Cultural Goods) of the Criminal Code</p>

²⁶ Legal texts were found on the UNESCO database as well as being transmitted by Dr. Galambos, Head of Legal and Registrars at Museum of Fine Arts, Budapest.

<i>HUNGARY – HONGRIE</i>	
<p>Legal definition of handling</p>	<p>Handling of cultural goods</p> <p>(1) The person who - for a profit - obtains, conceals or co-operates in the alienation of a thing originating from theft, embezzlement, fraud, fraudulent breach of trust, robbery, robbery through inebriation or intimidation, blackmailing, unlawful appropriation or receiving of stolen goods, commits the offence of receiving of stolen goods.</p> <p>(2) The punishment shall be for a lesser offence, imprisonment of up to two years, labour in the public interest or a fine, if the receiving of stolen goods is committed</p> <p>(a) in respect of a smaller value, (b) in respect of a value established for minor offence, in the course of a business.</p> <p>(3) Where the offence of receiving of stolen goods is committed in respect of a greater value or for an object considered to be a cultural good, the punishment shall be a term of imprisonment of up to three years.</p> <p>(4) The term of imprisonment will be between one and five years, where the receiving of stolen goods is committed</p> <p>(a) in respect of a considerable value, (b) in respect of a greater value in a business-like manner.</p> <p>(5) The punishment shall be imprisonment between two to eight years for the crime of receiving stolen goods is committed</p> <p>(a) in respect of particularly considerable value, (b) in respect of substantial value in a business-like manner.</p> <p>(6) The punishment shall be a term of imprisonment of between five and ten years, if receiving of stolen goods is committed</p> <p>(a) for a particularly substantial value, (b) for a particularly considerable value in a business-like manner,</p> <p>Section 326 § of the Criminal Code of the Republic of Hungary</p>
<p>Legal definition of good faith or due diligence</p>	<p>Good faith</p> <p>A person acts in good faith if, contrary to the appearances, he/she does not know the true situation and, notwithstanding the exercise of due diligence, should not know about it.</p> <p>Unless this Act prescribes stricter requirements, it shall be necessary to proceed in civil relations in a manner that can generally be expected in the particular situation. No person shall be entitled to refer to his own actionable conduct in order to obtain an advantage. Any person who has not proceeded in a manner that can generally be expected in the particular situation shall be entitled to refer to the other party's actionable conduct.</p> <p>Civil Code' Basic Principles 4. § (4)</p> <p>(2) A person who has, in good faith, believed in the existence of an invalid contract can demand compensation from the parties for damages that originate from the conclusion of the contract. However, if invalidity is attributable to the conduct of one of the parties, the</p>

<i>HUNGARY – HONGRIE</i>	
	<p>court shall not condemn the other party. If either of the parties has acted in bad faith towards the third person, such party shall be liable for full compensation for damages even if invalidity is not attributable to his conduct. The court shall also be entitled to award such indemnification by maintaining the validity of the contract either in part or in full.</p> <p>Chapter XX Content and Subject Matter of Contracts Section 238</p> <p>Due diligence</p> <p>One must act as is generally to be expected in a given situation.</p> <p>Concerning due diligence, the 1995 <u>UNIDROIT Convention</u> entered into force on 1 November 1998.</p>
Definition of due diligence in the code of ethics	Since 2005, application of the ICOM Ethics of Acquisition (1970).
<i>Operational tools</i>	
Administration dealing with illicit traffic	The National Office of Cultural Heritage Inspectorate of Cultural Goods
Specialized Police Unit	No Notwithstanding the existence of the Subdivision for Art Treasury Protection of the Special Cases Unit at the Hungarian Nation Bureau of Investigation, a police unit which is specialized in the protection of art treasures and deals with crimes related to the illegal traffic of cultural goods, it is not exactly in charge of the fight against illegal traffic.
Specialized Customs Unit	No
<i>Technical tools</i>	
Database on cultural goods and national treasures	Data base on cultural goods Run by the National Office of Cultural Heritage
Database on goods of religious value	(information not provided)
Database on private collections	(information not provided)
Database on stolen cultural	Database on stolen cultural goods Maintained by The Office of Cultural Heritage

<i>HUNGARY – HONGRIE</i>	
<p>objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)</p>	<p>Database of registered cultural professionals Maintained by The Office of Cultural Heritage (the Minister of Human Resources is responsible for the inventory of cultural experts) http://kereso.koh.hu/index.php?_url=all.php&_mp=mutargy&_amp=LM</p>

<i>IRELAND – IRLANDE</i>	
Legislation	
Legal definition of cultural good and / or national treasure	<p>Archaeological object Means any chattel whether in a manufactured or partly manufactured or an unmanufactured state which by reason of the archaeological interest attaching thereto or of its association with any Irish historical event or person has a value substantially greater than its intrinsic (including artistic) value, and the said expression includes ancient human, animal or plant remains Part I Section 2 (1) Heritage Act, 1995²⁷ [see also Part I Section 2 (1) National Cultural Institutions Act, 1997²⁸]</p> <p>Heritage object Means objects over 25 years old which are works of art or of industry (including books, documents and other records, including genealogical records) of cultural importance Part I Section 2 (1) Heritage Act, 1995</p> <p>Cultural object Includes museum heritage objects, library material and any other object or thing considered appropriate to be exhibited or kept by an institution specified in the Second Schedule [Chester Beatty Library, Crawford Gallery, Hugh Lane Municipal Gallery of Modern Art, Irish Museum of Modern Art Company, National Museum of Ireland, National Library of Ireland, National Gallery of Ireland, Hunt Museum (Limerick), Royal Irish Academy] Part III Section 42 National Cultural Institutions Act, 1997</p>
Legal definition of theft of cultural goods	No
Legal definition of handling	<p>Handling A person is guilty of handling stolen property if (otherwise than in the course of the stealing) he or she, knowing that the property was stolen or being reckless as to whether it was stolen, dishonestly— (a) receives or arranges to receive it, or (b) undertakes, or assists in, its retention, removal,</p>

²⁷ <http://www.irishstatutebook.ie/1995/en/act/pub/0004/index.html>

²⁸ <http://www.irishstatutebook.ie/1997/en/act/pub/0011/index.html>

<i>IRELAND – IRLANDE</i>	
	disposal or realisation by or for the benefit of another person, or arranges to do so. Section 17 § 1 Criminal Justice (Theft and Fraud Offences) Act 2001 ²⁹
Legal definition of good faith or due diligence	(information not provided)
Definition of due diligence in the code of ethics	(information not provided)
<i>Operational tools</i>	
Administration dealing with illicit traffic	Department of Arts, Heritage and the Gaeltacht www.pobail.ie
Specialized Police Unit	(information not provided)
Specialized Customs Unit	(information not provided)
<i>Technical tools</i>	
Database on cultural goods and national treasures	(information not provided; there is a register of cultural objects foreseen within Part IV Section 48 National Cultural Institutions Act 1997)
Database on goods of religious value	(information not provided)
Database on private collections	(information not provided)
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	(information not provided)

²⁹ <http://www.irishstatutebook.ie/2001/en/act/pub/0050/index.html>

<i>ITALY – ITALIE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Historical and artistic heritage [The Republic] safeguards natural landscape and the historical and artistic heritage of the Nation. Art. 9, al.2 Constitution³⁰</p> <p>Cultural heritage The cultural heritage consists of cultural property and landscape assets. Art. 2 al. 1 CBCP³¹</p> <p>Cultural property Cultural property consists of immovable and movable things which, pursuant to articles 10 and 11, present artistic, historical, archaeological, ethno-anthropological, archival and bibliographical interest, and of any other thing identified by law or in accordance with the law as testifying to the values of civilisation. Art. 2 al. 2 CBCP³²</p> <p>For the various categories of cultural property see also Articles 10 and 11 of the CBCP.</p> <p>National treasure Apart from the reference to Community law, Italian law does not have a definition of national treasure.</p>
<p>Legal definition of theft of cultural goods</p>	<p>Theft Under Italian law, there is no specific offence of “theft of cultural goods”. Reference to ordinary law: Art. 624 of the Criminal Code (Theft) And Art. 624bis (Burglary and snatching).</p>
<p>Legal definition of handling</p>	<p>Handling Handling is the conduct of “a person who, with a view to obtaining a profit for himself or another, purchases, receives or conceals money or property resulting from a crime, or acts as an intermediary for the purchase, receipt or concealment thereof.” Art. 648 of the Criminal Code (<i>Ricettazione</i>)</p> <p>Cultural property is not explicitly mentioned.</p>
<p>Legal definition of good faith or due diligence</p>	<p>Good faith Italian law recognizes the concept of good faith, although no legal definition is provided. Article 1147 of the Civil Code, on the subject of “possession in good</p>

³⁰ Translation on <http://english.camera.it/deputati/funzionamento2002/03.costituzione.asp>

³¹ Translation http://www.unesco.org/culture/natlaws/media/pdf/italy/it_cult_landscapeheritage2004_engtof.pdf

³² Idem.

<i>ITALY – ITALIE</i>	
	<p>faith”, simply states that: “A possessor in good faith is one who possesses without being aware that he is infringing the right of another. Good faith cannot be validly invoked if ignorance of the right of the other results from serious misconduct.</p> <p>Good faith is presumed and need only have existed at the time of the purchase.”</p> <p>Concerning due diligence, Convention UNIDROIT 1995 entered into force on April 1st, 2000.</p>
Definition of due diligence in the code of ethics	No
Operational tools	
Administration dealing with illicit traffic	The Ministry of Cultural Heritage and Activities (MiBAC), through the Cultural Heritage Departments (<i>Soprintendenze</i>) and Export Bureaux (<i>Uffici esportazione</i>), created within the <i>Soprintendenze</i> .
Specialized Police Unit	Comando Carabinieri per la Tutela del Patrimonio Culturale http://www.carabinieri.it/Internet/Cittadino/Informazioni/Tutela/Patrimonio+Culturale/
Specialized Customs Unit	No
Technical tools	
Database on cultural goods and national treasures	No
Database on goods of religious value	No
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully	<p>Database of stolen cultural property (<i>Banca Dati dei beni culturali illecitamente sottratti</i>)</p> <p>Management is entrusted to Ufficio Comando - Sezione Elaborazione Dati, Comando Carabinieri Tutela Patrimonio Culturale http://tpcweb.carabinieri.it/tpc_sito_pub/simplecerca.jsp</p>

<i>ITALY – ITALIE</i>	
possessed (database's name, name of the institution in charge, link)	

<i>LATVIA – LETTONIE</i> ³³	
Legislation	
Legal definition of cultural good and / or national treasure	<p>Cultural monuments are a part of the cultural and historical heritage – cultural and historical landscapes and individual territories (ancient burial sites, cemeteries, parks, places of historical events and the activities of famous persons), as well as individual graves, groups of buildings and individual buildings, works of art, facilities and articles with historical, scientific, artistic or other cultural value and the preservation of which for future generations is in conformity with the interests of the State and people of Latvia, as well as international interests. Art. 1 Law on Protection of Cultural Monuments, 11/03/1992</p> <p>Cultural objects Are works of art and antiques. Art. 1, Exportation of Works of Art and Antiques from Latvia and Importation into Latvia, Reg. nr. 8, 07/01/2003 Art. 1, Procedures for Return of Unlawfully Removed Art and Antique Objects, Reg. nr. 526, 16/09/2003</p>
Legal definition of theft of cultural goods	No
Legal definition of handling	<p>No definition of handling³⁴</p> <p>Misappropriation Unlawful acquiring or wasting property of another, if such has been committed by a person to whom such property been entrusted or in whose charge it has been placed. Art. 179 (1) Criminal Law, 17/06/1998</p>
Legal definition of good faith or due diligence	<p>There is no definition of good faith Art. 1, Civil Law, 28/01/1937 Art. 401, Commercial Law, 13/04/2000</p>
Definition of due diligence in the code of ethics	<p>No ICOM Code of ethics is followed.</p>
Operational tools	
Administration	State Inspection for Heritage Protection

³³ Source of the translations into English: www.likumi.lv; official website of Latvian legislation which contains every law adopted nationwide and official translations prepared by the State Language Centre (in Latvian *Valsts valodas centrs*).

³⁴ There is no definition of handling as the holding or appropriation of stolen objects. However, there is a broader definition of misappropriation.

dealing with illicit traffic	www.mantojums.lv
Specialized Police Unit	No
Specialized Customs Unit	No
Technical tools	
Database on cultural goods and national treasures	<p>Database on movable cultural monuments State Inspection for Heritage Protection www.mantojums.lv</p> <p>Main inventory of the museums' national collection www.nmkk.lv/</p> <p>Central register of the National Archives Run by the National Archives of Latvia http://www.arhivi.gov.lv/vvl/webcfr/search.php?valoda=lv</p> <p>Database on State archives Run by the State Archives of Latvia www.itl.rtu.lv/LVA/index3.php?id=9099</p>
Database on goods of religious value	No
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database on stolen, displaced and unlawfully removed assets, including cultural goods Run by the Information Centre of the Ministry of the Interior of the Republic of Latvia No public access.</p> <p>Database « Detection of the Status of Cultural Object » Run by the Information Centre of the Ministry of the Interior of the Republic of Latvia Database still under construction http://www.ic.iem.gov.lv/ko_status/</p> <p>Database on stolen or displaced cultural monuments Run by the State Inspection for Heritage Protection No public access.</p>

<i>LITHUANIA – LITUANIE</i> ³⁵	
Legislation	
Legal definition of cultural good and / or national treasure	<p>Movable cultural property Movable material creations and other objects, based on their designation and nature, resulting from public and individual activity and possessing considerable cultural value, including those of importance in an ethnic, archaeological, historical, artistic, scientific, technical, religious and another sense and also, insofar as they describe typical as well as specific phenomena of national existence and are included in the State records of movable cultural property. Art. 2, Law on Protection of Movable Cultural Property, 23/01/1996</p> <p>Cultural monument of Lithuania An item of movable cultural property declared a cultural monument of Lithuania according to the procedure established by this Law. Art. 2, Law on Protection of Movable Cultural Property, 23/01/1996</p>
Legal definition of theft of cultural goods	<p>Theft of cultural goods Taking of property of a high value belonging to another or valuables of a considerable scientific, historical or cultural significance. Art. 178 (3), Criminal Code, 26/09/2000</p>
Legal definition of handling	<p>Handling Acquisition or handling of property obtained by criminal means that a person who acquires, uses or handles a property of a high value or the valuables of a considerable scientific, historical or cultural significance while being aware that that property or the valuable properties have been obtained by criminal means shall be punished [...]. Art. 189 Acquisition or Handling of the Property Obtained by Criminal Means, Criminal Code, 26/09/2000</p>
Legal definition of good faith or due diligence	<p>Good faith No definition Art. 1.5 (1), Civil Code, 18/07/2000 Art. 1.137 (2), Civil Code, 18/07/2000</p>

³⁵ Source of the translations into English: www.lrs.lt, the official website of the Parliament of the Republic of Lithuania (in Lithuanian *Lietuvos Respublikos Seimas*). This site contains a database of every law adopted by the parliament and every official legal act adopted by other State institutions (http://www3.lrs.lt/dokpaieska/forma_e.htm). The database includes a function to search official Lithuanian texts in foreign languages.

	Concerning due diligence , Convention UNIDROIT 1995 entered into force on July, 1 st 1998.
Definition of due diligence in the code of ethics	The ICOM Code of Ethics is broadly considered.
Operational tools	
Administration dealing with illicit traffic	Department of Cultural Heritage, Ministry of Culture www.kpd.lt
Specialized Police Unit	Cultural and Art Values Theft Investigation Unit Lithuanian Criminal Police Bureau http://lkpb.policija.lt
Specialized Customs Unit	No
Technical tools	
Database on cultural goods and national treasures	<p>Database on movable and immovable cultural goods Run by the Department of Cultural Heritage, Ministry of Culture kvr.kpd.lt/heritage</p> <p>Database for digital cultural heritage content from archives, libraries and museums Run by the Integrated Virtual Information System www.epaveldas.lt</p> <p>Lithuanian Integrated Museum Information System (LIMIS) Database under construction www.emuziejai.lt</p> <p>National Archival Database Run by the Lithuanian Archives Fonds Digest www.archyvai.lt/archyvai/content/archivesSearch.jsp</p>
Database on goods of religious value	No
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database on Stolen Cultural Valuables Run by the Cultural and Art Values Theft Investigation Unit, Lithuanian Criminal Police Bureau www.policija.lt/lt/kuriniai</p>

<i>LUXEMBOURG</i>	
<i>Legislation</i>	
Legal definition of cultural good and / or national treasure	<p>Cultural goods</p> <p>Movable objects, which may be movable in the strict sense or intended to be immovable, the conservation of which is in the public interest from an archaeological, historical, artistic, aesthetic, scientific, technical or industrial point of view, may be classified by Ministerial Order.</p> <p>Art. 19 of the law of 18/07/1983 on the conservation and protection of national sites and monuments</p>
Legal definition of theft of cultural goods	No
Legal definition of handling	<p>Handling</p> <p>Persons who have handled all or part of the objects or intangible property removed, misappropriated or obtained by means of a crime or an offence will be punished with a prison sentence ranging from 15 days to 5 years and a fine from 251 euros to 5,000 euros. In addition, they may be sentenced to the ban provided for in Art. 24. The fact of knowingly benefiting from the proceeds of a crime or an offence also constitutes handling.</p> <p>Art. 505 of the Criminal Code</p>
Legal definition of good faith or due diligence	<p>Good faith</p> <p>Good faith is always presumed and to the onus of proving bad faith falls on the party claiming it.</p> <p>Art. 2268 of the Civil Code</p> <p>It is sufficient for good faith to have existed at the time of acquisition.</p> <p>Art. 2269 of the Civil Code</p> <p>Due diligence</p> <p>No definition.</p>
Definition of due diligence in the code of ethics	No
<i>Operational tools</i>	
Administration dealing with illicit traffic	Ministry of Culture
Specialized Police Unit	No
Specialized Customs Unit	No

<i>LUXEMBOURG</i>	
Technical tools	
Database on cultural goods and national treasures	Database of protected cultural goods Managed by the Ministry of Culture. No public access.
Database on goods of religious value	No
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	No

<i>MALTA – MALTE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural heritage Cultural heritage means movable or immovable objects of artistic, architectural, historical, archaeological, ethnographic, paleontological and geological importance and includes information or data relative to cultural heritage pertaining to Malta or to any other country. This includes archaeological, paleontological or geological sites and deposits, landscapes, groups of buildings, as well as scientific collections, collections of art objects, manuscripts, books, published material, archives, audio-visual material and reproductions of any of the preceding, or collections of historical value, as well as intangible cultural assets comprising arts, traditions, customs and skills employed in the performing arts, in applied arts and in crafts and other intangible assets which have a historical, artistic or ethnographic value Art. 2 Cultural heritage act</p> <p>Cultural property Cultural property means movable or immovable property forming part of the cultural heritage</p>
<p>Legal definition of theft of cultural goods</p>	<p>Theft Theft is aggravated by place, when it is committed (a) in any public place destined for divine worship [...] Art. 269 Criminal code</p> <p>Theft is aggravated by the nature of the thing stolen (i) when it is committed on any public record as defined in article 2 of the National Archives Act [...] Art. 271 Criminal code</p>
<p>Legal definition of handling</p>	<p>Handling Whosoever shall purchase or otherwise receive from any other person or shall be found to have in his possession any article bearing any mark or sign denoting such article to be the property of the Republic of Malta, or any article which the possessor knows to be the property of the Republic of Malta, for the disposal of which no written permission shall have been given by the competent authority, and shall fail to give a satisfactory account as to how he came by the article or thing found in his possession, shall, on conviction, be liable to a fine (multa) or imprisonment for a term not exceeding one month. Art. 290 Criminal code</p> <p>Whosoever shall in Malta knowingly receive or purchase</p>

<i>MALTA – MALTE</i>	
	<p>any property which has been stolen, misapplied or obtained by means of any offence, whether committed in Malta or abroad, or shall knowingly take part, in any manner whatsoever, in the sale or disposal of the same, shall, on conviction, be liable</p> <p>(a) if the property has been obtained by theft, to the punishment established for theft, according to the value of the property;</p> <p>(b) if the property has been obtained by means of any of the various offences relative to unlawful acquisition and possession of property, to the punishment established for such unlawful acquisition or possession;</p> <p>(c) if the property has been obtained by fraud, to the punishment established for the particular fraud by which the property was obtained.</p> <p>Provided that the offender shall be exempted from any punishment in respect of any of the offences referred to in this article, if, before any criminal proceedings are instituted against him and within three days after receiving, purchasing, or taking part in the purchase, sale or disposal as aforesaid, he shall deliver to the competent authority the property received, purchased, sold or disposed of, and shall make known the perpetrators of the offence</p> <p>Provided further that for the purpose of this article such property shall only be deemed to have been stolen, misapplied or obtained by means of any offence committed abroad if it has been obtained by any act of commission or omission which, if committed in Malta, would have amounted to any of the offences mentioned in paragraphs (a), (b) and (c).</p> <p>Art. 334 Criminal code</p> <p>Whosoever, on becoming aware that any property in his possession is stolen property or property misapplied or obtained by means of any offence, fails to give notice thereof to the Executive Police within a week of becoming so aware, shall, on conviction, be liable to imprisonment for a term not exceeding three months or to a fine (<i>multa</i>)</p> <p>Art. 334 A Criminal code</p>
<p>Legal definition of good faith or due diligence</p>	<p>Good faith</p> <p>(1) A person who, on probable grounds, believes that the thing he possesses is his own, is a possessor in good faith.</p> <p>(2) A person who knows or who ought from circumstances to presume that the thing possessed by him belongs to others is a possessor in bad faith.</p> <p>Art. 531 Civil code</p>

<i>MALTA – MALTE</i>	
	Due diligence (information not provided)
Definition of due diligence in the code of ethics	(information not provided)
Operational tools	
Administration dealing with illicit traffic	Superintendence of Cultural Heritage
Specialized Police Unit	Cultural Heritage Crime Unit
Specialized Customs Unit	No
Technical tools	
Database on cultural goods and national treasures	Database on national collections of cultural goods, on archaeological excavations, immovable cultural goods, religious assets... Run by the Cultural Heritage Inventory Management System www.chims.gov.mt Database on central museums' collections Database on national treasures
Database on goods of religious value	(information not provided)
Database on private collections	(information not provided)
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	No

<i>NETHERLANDS – PAYS-BAS</i>	
Legislation	
Legal definition of cultural good and / or national treasure	Protected cultural heritage Section 1 Cultural Heritage Preservation Act ³⁶
Legal definition of theft of cultural goods	No
Legal definition of handling	Handling 1. A person who, with the object of obtaining unlawful gain for himself or another, compels a person by an act of violence or by threat of violence to surrender any property belonging in whole or in part to that person or to a third party, or to incur a debt or renounce a claim, or to make available data having monetary value in commerce, is guilty of extortion and liable to a term of imprisonment of not more than nine years or a fine of the fifth category. 2. The punishment in section 1 is also applicable to a person who exercises coercion as specified in section 1 by threatening that data stored by means of a computerized device or system will be rendered unusable or inaccessible, or erased. 3. The provisions of article 312, sections 2 and 3, are applicable to this serious offense. Art. 317 Criminal Code ³⁷
Legal definition of good faith or due diligence	Good faith Observance of the necessary diligence (prudence) at the acquisition of a cultural object - 1. To determine whether the possessor has observed the necessary diligence (prudence) at the acquisition of a cultural object as meant in Article 1 of the Implementation Act for the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, account is taken of all circumstances at the acquisition, especially of: a. the capacity of the parties; b. the price paid; c. the fact whether the possessor has consulted any reasonably accessible register of stolen cultural property and any other relevant information and

³⁶ See http://www.unesco.org/culture/natlaws/media/pdf/netherlands/netherlands_loi49_01_02_1984_eng_tno.pdf

³⁷ <http://legislationline.org/documents/action/popup/id/4693>

<i>NETHERLANDS – PAYS-BAS</i>	
	<p>documentation that he reasonably could have obtained, and whether the possessor has consulted accessible agencies and institutions; d. the fact whether the possessor has taken all other steps which a reasonable person in those circumstances would have taken.</p> <p>- 2. A trader (dealer) as defined in Article 437 of the Penal Code has not observed the necessary diligence (prudence) at the acquisition of a cultural object as referred to in Article 3:87b, paragraph 2, if he has failed:</p> <p>(a) to verify the identity of the seller; (b) to demand a written declaration of the seller that he is competent to dispose of the object; (c) to record in the register that is kept by this trader (dealer): the origin of the cultural object, the names and address of the seller, the purchase price paid to the seller and a description of the object; (d) to consult the registers for stolen cultural property which in the given circumstances in view of the nature of the cultural object are eligible for consultation.</p> <p>- 3. An auctioneer who, upon collection (acceptance) of a cultural object for public sale, does not act in conformity with the diligence requirements of paragraph 1 and 2 or who returns this cultural object to the person who has offered it to him to sell it by auction, commits a tortious (unlawful) act against those who may file a legal claim for the return of that object as meant in Article 3:86d.</p> <p>Art. 87 a Civil Code³⁸</p> <p>Due diligence No definition.</p>
Definition of due diligence in the code of ethics	The Dutch Code of Ethics for Museums is based on the ICOM Code of Ethics.
Operational tools	
Administration dealing with illicit traffic	Cultural Heritage Inspectorate (CHI) Ministry of Education, Culture and Science.
Specialized Police Unit	Arts and Antiques Crime Unit
Specialized Customs Unit	No Existence of a network of experts (specialists in cultural matters and consultants on criminal matters)

³⁸ Non official translation on <http://www.dutchcivillaw.com/civilcodebook033.htm>

<i>NETHERLANDS – PAYS-BAS</i>	
	involving cultural property)
Technical tools	
Database on cultural goods and national treasures	No
Database on goods of religious value	<p>Database on goods of religious value Run by The Foundation for Ecclesiastical Art and Artefacts the Netherlands, Stichting Kerkelijk Kunstbezit in Nederland, SKKN Database under construction No public access</p>
Database on private collections	Database under construction
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database on stolen cultural objects EDISON K&A (Art and Antiques) BlueView Run by the Police (Arts and Antiques Crime Unit) No public access</p>

<i>POLAND – POLOGNE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Monument</p> <p>The expressions used in this Act shall have the following meaning:</p> <p>1) monument – real estate or a movable, their parts or complexes, being the work of a human being, or connected with human activity, and constituting a testimony of a past epoch or event, the preservation of which is in the social interest because of historical, artistic, or scientific value;</p> <p>Art. 3.1 Law on the protection of monuments and the guardianship of monuments [Non official translation on http://www.machuproject.eu/legislation.htm]</p> <p>The protection and guardianship, regardless of the state of preservation, cover:</p> <p>1) immovable monuments, in particular:</p> <ul style="list-style-type: none"> (a) cultural landscapes; (b) urban and rural layouts as well as building complexes; (c) works of architecture and construction industry; (d) works of defence construction; (e) technology sites, in particular mines, ironworks, glass works etc., electric power stations, and other industry plants; (f) cemeteries; (g) parks, gardens and other forms of designed greenery; (h) places commemorating historical events, or activity of the outstanding personalities, or institutions; <p>2) movable monuments, in particular: a) works of plastic arts, craftsmanship and utilitarian art;</p> <ul style="list-style-type: none"> (b) collections of objects gathered and arranged according to the concept of their creators; (c) numismatic pieces, historical mementos, including in particular military accessories, standards, stamps, badges, medals and decorations; (d) technology products, including in particular, machines, means of transport as well as machines and tools being a testimony of material culture, characteristic of old and new forms of economy, indicating the level of science and the development of civilization; (e) library materials, referred to in Article 5 of the Act on libraries of 27 June, 1997; (f) musical instruments; (g) works of folk art, handicrafts and other ethnographic objects; (h) things commemorating historical events, or activity of the outstanding personalities, or institutions; <p>3) archaeological monuments, in particular: a) ground remains of primeval and historical settlements,</p>

<i>POLAND – POLOGNE</i>	
	(b) graveyards; (c) barrows; (d) relics of economic, religious, and artistic activity. 2. Geographical, historical, or traditional names of a building, square, street or settlement can be protected as well. Art. 6 Law on the protection of monuments and the guardianship of monuments ³⁹
Legal definition of theft of cultural goods	Theft is aggravated when it involves an objective of considerable cultural importance . Arts. 294(2) and 295 of the Criminal Code
Legal definition of handling	Deliberate handling Any person who acquires an object by means of an offence, who helps to transfer or conceal it. It is deemed to be in an aggravating circumstance if the object is of considerable value or of considerable cultural importance.† Art. 291 of the Criminal Code
Legal definition of good faith or due diligence	Good faith Good faith is presumed. Art. 7 of the Civil Code
Definition of due diligence in the code of ethics	The ICOM Code of Ethics was translated in June 2007.
<i>Operational tools</i>	
Administration dealing with illicit traffic	Narodowy Instytut Muzealnictwa I Ochrony Zbiorów www.nimoz.pl
Specialized Police Unit	National Unit for Combating Crime against National Heritage Criminal Investigation Bureau, National Police Headquarters ttp://www.policja.pl/portal/pol/300/21941/Dobra_kultury.html
Specialized Customs Unit	(information not provided)
<i>Technical tools</i>	
Database on cultural goods and national treasures	No public access
Database on goods of religious value	No

³⁹ Non official translation on <http://www.machuproject.eu/legislation.htm>

<i>POLAND – POLOGNE</i>	
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p style="text-align: center;">Objects lost due to the World War II</p> <p>Obiekty utracone w wyniku II wojny Świtaowej Run by the Ministry of Culture http://kolekcje.mkidn.gov.pl/</p> <p style="text-align: center;">Database on stolen and illicitly exported cultural objects</p> <p>Krajowy wykaz zabytków skradzionych lub wywiezionych za granicę niezgodnie z prawem Run by Nimosz https://www.skradzioneszabytki.pl/</p>

<i>PORTUGAL</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural property</p> <p>1. Cultural property is considered to consist of movable and immovable assets that, in keeping with the provisions of paragraphs 1, 3 and 5 of Article 2, represent valuable material artefacts of civilization or culture.</p> <p>2. The fundamental principles and provisions of the present act are extendable insofar as they are compatible with the respective legal frameworks pertaining to natural, environmental, landscape or paleontological assets.</p> <p>Art. 14 Law n. 107/2001⁴⁰</p> <p>Movable cultural property</p> <p>1. Movable cultural property is considered to be part of the cultural heritage when it conforms to the provisions of Article 14, paragraph 1 and is the work of a Portuguese creator or has been attributed to a Portuguese creator, has been created or produced in the national territory, originates from the dismemberment of immovable property located there, has been ordered or distributed by national entities or has belonged to them, represents or bears witness to significant national experiences or deeds, along with natural elements of Portuguese cultural life, that has been in Portuguese territory for more than 50 years or that, for reasons other than those stated above, is of special interest for the study and understanding of Portuguese civilization and culture.</p> <p>2. Movable cultural property is also considered to belong to the cultural heritage when, though not of Portuguese origin or authorship, it is located in the national territory and conforms to the provisions of Article 14, paragraph 1.</p> <p>3. The movable cultural property referred to in the preceding paragraph consists of artistic, ethnographic, scientific and technical specimens, as well as archaeological, archival, audiovisual, bibliographic, photographic, phonographic and any other specimens that may be considered as such by the implementing legislation.</p> <p>Art. 55 Law n. 107/2001⁴¹</p>
<p>Legal definition of theft of cultural goods</p>	<p>Theft of cultural goods</p> <p>Art. 204 al. 2 lit. d Criminal Code [No translation available]</p>
<p>Legal definition</p>	<p>Handling</p>

⁴⁰ Non official translation found on the IFAR's website

⁴¹ Idem.

<i>PORTUGAL</i>	
of handling	Art. 231 Criminal Code [No translation available]
Legal definition of good faith or due diligence	Concerning due diligence , Convention UNIDROIT 1995 entered into force on January 1 st , 2003.
Definition of due diligence in the code of ethics	(information not provided)
<i>Operational tools</i>	
Administration dealing with illicit traffic	Ministry of Culture Institute of Museums and Conservation
Specialized Police Unit	No
Specialized Customs Unit	No
<i>Technical tools</i>	
Database on cultural goods and national treasures	<p>Database of archaeological objects Managed by the Institute for the Management of Architectural and Archaeological Heritage - IGESPAR (Instituto de Gestão do Património Arquitectónico e Arqueológico). http://www.igespar.pt/en/patrimonio/pesquisa/</p> <p>Database of collections of national museums Managed by the Institute of Museums and Conservation (Instituto dos Museus e da Conservação). http://www.matriznet.imc-ip.pt/matriznet/BemVindo.aspx</p>
Database on goods of religious value	(information not provided)
Database on private collections	(information not provided)
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database of the Criminal Investigation Department Managed by the Criminal Investigation Department. http://www.policiajudiciaria.pt/PortalWeb/page/%7B37352625-1FFD-48CB-ADB3-A9C9123A5550%7D</p>

<i>ROMANIA – ROUMANIE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Movable cultural heritage</p> <p>The movable cultural heritage includes:</p> <ol style="list-style-type: none"> 1. Archaeological and historical-documentary goods of exceptional value, such as: <ol style="list-style-type: none"> (a) products of archaeological exploration and excavations conducted on land and under water, tools, pottery, inscriptions, coins, seals, , jewellery, items of cloths or harness, weapons, funerary remains; (b) items resulting from the dismemberment of historical monuments; (c) items relating to the political, economic, social, military, religious, scientific, artistic, sportive history; (d) manuscripts, incunabula, rare books, old books, books of bibliographic value; (e) documents and printed works of social significance: archives documents, maps and other cartographic materials; (f) objects of memoirs value; (g) items and documents of numismatic, philatelic, heraldic value: coins, medals, decorations, badges, registered designs, stamps, flags and banners; (h) epigraphic items; (i) photographs, photographic negatives, cinematographic films, sound recordings; (j) musical instruments; (k) military uniforms and accessories; (l) items of technical value; (m) other goods relating to this category. 2. Items of artistic interest, of exceptional value, such as: <ol style="list-style-type: none"> (a) works of plastic arts: paintings and drawings, sculptures, engravings, photographs and others; (b) works of applied art in such materials as glass, ceramics, metal, wood, textile and other materials, adornments; (c) cult objects: icons, embroideries, gold jewellery, items of furniture and others; (d) projects and prototypes of design; (e) original materials of animation, documentary and artistic movies; <ol style="list-style-type: none"> 1) public monuments, outdoor exposed artistic items; (f) other goods relating to this category. 3. Items at ethnographic interest, of exceptional value such as: <ol style="list-style-type: none"> (a) household and domestic appliances and tools; (b) items of furniture;

ROMANIA – ROUMANIE

- (c) pottery;
 - (d) textile objects, clothing items, leather items;
 - (e) other items of metal, wood, bone, rock, glass;
 - (f) cult objects;
 - (g) adornments;
 - (h) ensembles of ethnographic items;
 - 1) traditional buildings that are not conserved in situ or items resulting from the dismemberment of this;
 - (i) other goods relating to this category.
 - 4. Goods of scientific interest, of exceptional value, such as:
 - (a) rare zoological, botanical, mineralogy and anatomy specimens and collections;
 - (b) game trophies;
 - (c) other goods relating to this category.
 - 5. Goods of technical interest, of exceptional value, such as:
 - (a) unique technical creations;
 - (b) rarities, irrespective of mark;
 - (c) prototypes of current machines, appliances and creation tools;
 - (d) technical creations of memorial value;
 - (e) realisations of popular art;
 - (f) stencils of compact-disk, of CD-ROM, of DVD and others;
 - (g) other goods relating to this category
- Art. 3, Law 182 of 25.10.2000⁴²

Archaeological heritage

- (b) The archaeological heritage signifies the ensemble of archaeological objects comprising:
 1. the archaeological sites registered in the National Archaeological Repository, except the ones that have been destroyed or disappeared and the sites classified in the Historical Monuments List, situated underground or underwater, comprising archaeological vestiges: habitations, necropolis, structures, buildings, groups of buildings, as well as sites with located archaeological potential, as defined by the legislation in force;
 2. movable objects, objects or traces of human existence, together with the ground where they were uncovered;
- Art. 2 § 1 b, Ordinance n° 43 of 30.01.2000⁴³

⁴² Translation on
<http://www.eui.eu/Projects/InternationalArtHeritageLaw/Documents/NationalLegislation/Romania/law-182-2000.pdf>

⁴³ Translation on
<http://www.eui.eu/Projects/InternationalArtHeritageLaw/Documents/NationalLegislation/Romania/ordinance-43-2000eng.pdf>

<i>ROMANIA – ROUMANIE</i>	
	<p>Movable cultural goods Movable objects created by man or by nature, that have archaeological, historical-documentary, artistic, ethnographic, scientific or technical signification or importance and that can only be exported on the basis of an export certificate; Art. 2a Decision 518 of 07.04.2004⁴⁴</p>
Legal definition of theft of cultural goods	<p>Theft of cultural goods Theft of an object of cultural heritage is an aggravating circumstance of the common law offence. Art. 209(2) of the Criminal Code</p>
Legal definition of handling	<p>Handling (1) The act of receiving, acquiring or converting an asset, or facilitating its realisation, while aware of the fact that the asset emerges from the commission of an act provided in the criminal law, if by this the obtainment of material benefits for oneself or for another was intended, shall be punished by strict imprisonment from 2 to 5 years, while the sanction applied cannot exceed the penalty provided in the law for the offence from which the concealed asset has emerged (2) Concealment committed by a spouse or a close relative is not punishable.. Art. 267 Criminal Code⁴⁵</p>
Legal definition of good faith or due diligence	<p>Good faith Art. 1909 Civil Code Concerning due diligence, Convention UNIDROIT 1995 entered into force on July 1st, 1998.</p>
Definition of due diligence in the code of ethics	(information not provided)
<i>Operational tools</i>	
Administration dealing with illicit traffic	<p>Ministry of culture Directorate for cultural heritage http://www.cultura.ro/page/40</p>
Specialized Police Unit	No

⁴⁴ Translation on <http://www.eui.eu/Projects/InternationalArtHeritageLaw/Documents/NationalLegislation/Romania/governmentdecision-518-2004.pdf>

⁴⁵ Translation on <http://legislationline.org/download/action/download/id/1695/file/c1cc95d23be999896581124f9dd8.htm/preview>

<i>ROMANIA – ROUMANIE</i>	
Specialized Customs Unit	Service for the Protection of Intellectual Property Rights. Department for combating the trafficking in endangered plant and animal species, wild species and movable cultural property. http://www.customs.ro/ro/protejarea-frontierei/protejarea_patrimoniului_cultural_national.aspx
Technical tools	
Database on cultural goods and national treasures	Movable cultural property classified as national heritage http://clasate.cimec.ro/
Database on goods of religious value	No
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>List of stolen or lost cultural property Managed by the Institute for Cultural Heritage. http://cimec.ro/Muzee/pdf/RegistrulBunuriFurate-ordonareLOCALITATE.pdf</p> <p>Database of stolen / missing cultural property Managed by the police. http://www.igpr.ro/obiecte/obiecte.aspx</p> <p>Operational database accessible with accreditation Managed by the police, customs, Ministry of Culture and border guards. www.patrimoniul-mobil.ro</p>

<i>UNITED KINGDOM – ROYAUME UNI</i>	
Legislation	
Legal definition of cultural good and / or national treasure	<p>Cultural object means an object of historical, architectural or archaeological interest. Section 2(1) Dealing in Cultural Objects (Offences) Act 2003⁴⁶</p> <p>National treasure Introduction of the concept of national treasure through Community law. There is now a list which includes objects for which no export licence has been issued. Such objects have been purchased by public institutions or belong to private individuals who undertake to display them to the public.</p>
Legal definition of theft of cultural goods	<p>Theft of cultural goods A person is guilty of an offence if he dishonestly deals in a cultural object that is tainted, knowing or believing that the object is tainted Section 1(1) Dealing in Cultural Objects (Offences) Act 2003</p>
Legal definition of handling	<p>Handling (1) A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so. (2) A person guilty of handling stolen goods shall on conviction on indictment be liable to imprisonment for a term not exceeding fourteen years. Section 22 Theft Act 1968⁴⁷</p>
Legal definition of good faith or due diligence	<p>No, but these concepts are applied by British courts which, if necessary, rule on the good faith and/or due diligence of the person, taking into account all aspects of the case in question.</p>
Definition of due diligence in the code of ethics	<p>The definition of due diligence is contained in the guidelines Combating Illicit Trade: Due Diligence Guidelines for Museums, Libraries and Archives on Collecting and Borrowing Cultural Material. British professional associations also have codes of ethics. http://www.culturalpropertyadvice.gov.uk/trade/codes_of_ethics</p>
Operational tools	
Administration dealing with illicit traffic	<p>The Museum, Libraries and Archives Council (MLA) in conjunction with the Department for Culture, Media and Sport (DCMS).</p>

⁴⁶ <http://www.legislation.gov.uk/ukpga/2003/27>

⁴⁷ <http://www.legislation.gov.uk/ukpga/1968/60>

<i>UNITED KINGDOM – ROYAUME UNI</i>	
	This body is currently being restructured and will become the Arts Council.
Specialized Police Unit	Art and Antiques Squad
Specialized Customs Unit	No
<i>Technical tools</i>	
Database on cultural goods and national treasures	No
Database on goods of religious value	Inventory of property of cathedrals
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Stolen London Art Database Run by the Metropolitan Police http://www.met.police.uk/artandantiques</p> <p>Find Stolen Art Common platform for the police forces of the United Kingdom http://www.findstolenart.com/</p>

<i>SLOVAKIA – SLOVAQUIE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural heritage The cultural heritage of the Slovak Republic is the irreplaceable richness of the State and its citizens; it is the evidence of the development of society, philosophy, religion, science, technology, art; it is a document of the educational and cultural level of the Slovak nation, other nations, national minorities, ethnic groups and individuals who live or they lived in the past on the Slovak territory The Declaration of the Slovak National Council for the Cultural Heritage Protection 91/2001⁴⁸</p> <p>Monuments and historic sites The term “monuments and historic sites” shall mean the set of movable objects or immovable property declared as national cultural heritage monuments (cultural heritage monuments), historic reserves and historic zones. Property or objects in relation to which proceedings have been initiated for their declaration as cultural heritage monuments, historic reserves and historic zones shall also be considered as monuments and historic sites § 2 al. 1 Law 49/2002⁴⁹</p> <p>Cultural heritage monument For the purposes of this act, the term “cultural heritage monument” shall mean a movable object or immovable property possessing cultural heritage value, which has been declared a cultural heritage monument in order to ensure its protection. In the case of an archaeological find, a non-uncovered movable object or non-uncovered immovable property discovered using the methods and technology of archaeological research may also be considered a cultural heritage monument. § 2 al. 3 Law 49/2002⁵⁰</p> <p>Object of cultural significance An object of cultural significance is an original item of material or intellectual evidence, which is able directly or through interpretation to bear witness to the development of</p>

⁴⁸ Translation on <http://www.eui.eu/Projects/InternationalArtHeritageLaw/Documents/NationalLegislation/Slovakia/declarationno91of2001.pdf>

⁴⁹ http://www.culture.gov.sk/uploads/85/nX/85nXpVJcFfQooErtdIZ2vw/en_eurovkm_zakon_opf.pdf

⁵⁰ Idem.

<i>SLOVAKIA – SLOVAQUIE</i>	
	society and which has permanent scientific, historical, cultural or artistic significance. For the purposes of this act, a natural object shall also be considered an object of cultural significance if it is able to bear witness to the development of the natural environment and has scientific and historical significance. § 2 al. 1 Law 206/2009 ⁵¹
Legal definition of theft of cultural goods	(information not provided)
Legal definition of handling	(corresponds to concealment)
Legal definition of good faith or due diligence	Good faith (information not provided) Concerning due diligence , Convention UNIDROIT 1995 entered into force on 1 December 2003.
Definition of due diligence in the code of ethics	(information not provided)
<i>Operational tools</i>	
Administration dealing with illicit traffic	Directorate General for the Protection of Movable and Immovable Cultural Heritage http://www.culture.gov.sk/kulturne-dedicstvo
Specialized Police Unit	Department of stolen vehicles and protection of cultural heritage General Criminal Division Criminal Investigation Service Ministry of the Interior
Specialized Customs Unit	(information not provided)
<i>Technical tools</i>	
Database on cultural goods and national treasures	Database of historical sites and immovable property Run by the Monuments Board http://www.pamiatky.sk/pamiatky/fondy
Database on goods of religious value	No
Database on private collections	No

⁵¹ <http://www.culture.gov.sk/uploads/b8/fe/b8fef3af4245fcc015baeed7a6d0b2ec/act-206-2009.pdf>

<i>SLOVAKIA – SLOVAQUIE</i>	
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	Database on stolen cultural objects Run by the Ministry of Interior http://www.minv.sk/?odcudzene-a-najdene-umelecke-diela

<i>SLOVENIA – SLOVENIE</i>	
Legislation ⁵²	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural heritage Heritage means resources inherited from the past which Slovenes, members of the Italian and Hungarian ethnic communities and of the Romani community, as well as other nationals of the Republic of Slovenia, determine to reflect and express their values, identities religious and other beliefs, knowledge and traditions. Art. 1 of the Cultural Heritage Protection Act (Official Journal of the Republic of Slovenia, no. 16/08, 123/08)</p> <p>Movable heritage Definition in details as movable heritage on the basis of the Annex of Regulation 116/09EEC, and additional requirements – it is a monument, – it is a more than 100-year old archaeological find – it is a more than 100-year old integral part of an immovable monument which has been dismembered, – it is inventoried as a part of a collection of a museum or public archive or public library, or as a fixture or a part of a collection of a church or other religious community, or – has cultural value for the Republic of Slovenia due to its importance. Art. 10 of the Cultural Heritage Protection Act (Official Journal of the Republic of Slovenia, no. 16/08, 123/08)</p> <p>National treasure General definition Art. 3 of the Cultural Heritage Protection Act (Official Journal of the Republic of Slovenia, no. 16/08, 123/08) Art. 4 of the Law on the Return of unlawfully removed objects of cultural heritage 2003</p>
<p>Legal definition of theft of cultural goods</p>	<p>Theft of cultural goods (1) A thief under paragraph 1 of the preceding Article shall be sentenced to a term of imprisonment not exceeding five years, if the offence was committed: 1) by entering into a closed building, room or opening a strong-box, wardrobe, case or other enclosure by way of burglary, breaking into or surmounting other larger obstacles; 2) by at least two persons who colluded with the intention of committing theft;</p>

⁵² Legal texts are based on those found on the UNESCO database and been sent by Dr Brus, Ministry of Culture.

<i>SLOVENIA – SLOVENIE</i>	
	<p>3) in a particularly audacious manner;</p> <p>4) with a weapon or dangerous tool which was intended for use in attack or defence;</p> <p>5) during a fire, flood or similar environmental catastrophe;</p> <p>6) by taking advantage of the helplessness or accident of another person.</p> <p>(2) The same punishment shall be imposed on the perpetrator of theft if the stolen property is either of special cultural significance, or a natural curiosity, or of high value, and if his intention was to appropriate such property or property of such value.</p> <p>(3) If the offence referred to in paragraph 1 of this Article was committed in order to acquire property of special cultural significance or of high value and if the intention of the perpetrator was to appropriate such property or property of such value, or if the offence referred to in paragraph 2 of this Article was committed within a criminal association, he shall be sentenced to imprisonment for not less than one and not more than eight years;</p> <p>Art. 205 Criminal code</p>
<p>Legal definition of handling of cultural goods</p>	<p>Concealment</p> <p>(1) Whoever purchases, takes as a pledge or otherwise acquires, conceals or disposes either of movable or immovable property which he knows to have been gained unlawfully shall be sentenced to imprisonment for not more than two years.</p> <p>(2) Whoever commits the offence under the preceding paragraph, and whoever should and could have known that the property had been gained unlawfully, shall be punished by a fine or sentenced to imprisonment for not more than one year.</p> <p>(3) If the offence referred to in paragraphs 1 or 2 of this Article was committed by at least two persons who colluded with the intention of concealment, or if the property referred to in paragraphs 1 or 2 of this Article is of high value, or the property is either of special cultural significance or a natural curiosity, the perpetrator shall be sentenced to imprisonment for not more than three years for the offence referred to in paragraph 1, and to imprisonment for not more than two years for the offence referred to in paragraph 2.</p> <p>(4) If the concealed property has been obtained from a criminal offence for which the perpetrator is prosecuted by private action or complaint, the prosecution regarding offences under paragraphs 1 and 2 shall be initiated upon a private action or a complaint respectively.</p> <p>(5) If the act referred to in paragraphs 1, 2 or 3 of this Article was committed within a criminal association for the commission of</p>

<i>SLOVENIA – SLOVENIE</i>	
	such criminal offences, the perpetrator shall be sentenced to imprisonment for not less than five years. Art. 217 Criminal code
Legal definition of good faith or due diligence	Good faith (payment of damages to a <i>bona fide</i> possessor) Art. 50 of the Cultural Heritage Protection Act 2008 Article 50 Concerning due diligence , the 1995 UNIDROIT Convention entered into force on 1 October 2004.
Definition of due diligence in the code of ethics	The ICOM code is applied in Slovenia
Operational tools	
Administration dealing with illicit traffic	Ministry of Culture
Specialized Police Unit	There is no specialized unit but in charge of this field are: - one Criminal Police Inspector at the national level (General Police Directorate, Criminal Police Directorate, General Crime Division, Property Crime Section; - 11 Criminal Police Inspectors at regional level (11 Police Directorates ; each of them has one inspector in charge for this field); - police officers and criminal investigators at the local level (during everyday work with help of the Criminal Police Inspectors from regional level)
Specialized Customs Unit	No
Technical tools	
Database on cultural goods and national treasures	Database on national treasures Run by the Ministry of culture No public access.
Database on goods of religious value	No
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name,	Database on stolen and missing works of art and cultural goods Run by the police http://www.policija.si/index.php/ukradene-slike

<i>SLOVENIA – SLOVENIE</i>	
name of the institution in charge, link)	

<i>SPAIN – ESPAGNE</i>	
Legislation	
Legal definition of cultural good and / or national treasure	<p>Spanish Historical Heritage The Spanish Historical Heritage is made up of movable and immovable objects of artistic, historical, paleontological, archaeological, ethnographic, scientific or technical interest. It also comprises documentary and bibliographical heritage, archaeological sites and areas as well as natural sites, gardens and parks having artistic, historical or anthropological value. Art. 1, al. 2 Law on the Spanish Historical Heritage⁵³</p> <p>Movable cultural property There is no precise definition of cultural property in the law regarding heritage. However, the article of the Civil Code relating to the concept of movable property applies to movable cultural property. Property capable of appropriation not included in the preceding chapter and, generally, all property which may be transported from one point to another without impairment of the immovable object to which it is joined shall be deemed to movable property Art. 335 Civil Code⁵⁴</p> <p>Property of cultural interest (national treasures) [...] property that is more than one hundred years old and, in all circumstances, of property registered in the General Inventory described in article 26 of this Law shall require express authorisation in advance from the State Administration for export by the method and under the conditions laid down in regulations. Article 5.3 Law on the Spanish Historical Heritage⁵⁵</p>
Legal definition of theft of cultural goods	<p>Theft Those who seize moveable assets pertaining to others for profit, using forcible means to access the place where these are located, or violence or intimidation of persons, shall be convicted of burglary or robbery, respectively Art. 237 Criminal Code⁵⁶</p> <p>The theft of cultural property is an aggravating circumstance.</p>
Legal definition of handling	<p>Handling 1. Whoever, for profit and being aware that a crime against property or the social-economic order is being committed, in which he has not intervened either as a principal or accomplice, aids those responsible to take advantage of the proceeds thereof, or receives, acquires or conceals those proceeds,</p>

⁵³ http://www.unesco.org/culture/natlaws/media/pdf/spain/spa_law_16_1985_engtof.pdf

⁵⁴ <http://www.mjusticia.gob.es/cs/Satellite/es/1215198252168/DetalleInformacion.html>

⁵⁵ http://www.unesco.org/culture/natlaws/media/pdf/spain/spa_law_16_1985_engtof.pdf

⁵⁶ <http://www.mjusticia.gob.es/cs/Satellite/es/1215198252168/DetalleInformacion.html>

<i>SPAIN – ESPAGNE</i>	
	<p>shall be punished with a sentence of imprisonment of six months to two years.</p> <p>2. The higher half of that punishment shall be imposed on anyone who receives, acquires or conceals the proceeds of the crime to traffic therewith. Should the trade be carried out using a commercial or industrial establishment or premises, the punishment of a fine from twelve to twenty-four months shall also be imposed. In these cases, the Judges or Courts of Law, in view of the severity of the act and the personal circumstances of the criminal, may also sentence him to the punishment of special barring from the exercise of his profession or industry, for a term from two to five years, and order the measure of temporary or definitive closing of the establishment or premises. If the closing is temporary, its duration may not exceed five years.</p> <p>3. Under no circumstances whatsoever may a sentence of imprisonment be handed down that exceeds that set for the felony concealed. Should this be punished with a punishment of another nature, the sentence of imprisonment shall be substituted by that of a fine from twelve to twenty-four months, except if the felony concealed is assigned a punishment is assigned a punishment equal to or lower than this. In such an event, the offender shall have the punishment for the felony in its lower half imposed.</p> <p>Art. 298 Criminal Code⁵⁷</p>
<p>Legal definition of good faith or due diligence</p>	<p>Good faith</p> <p>The person who is unaware that there is a defect which invalidates his title or manner of acquisition shall be deemed a possessor in good faith. Otherwise he shall be deemed a possessor in bad faith.</p> <p>Art. 433</p> <p>Good faith is always presumed, and the person asserting a possessor's bad faith shall have the burden of proving it.</p> <p>Art. 434</p> <p>Possession acquired in good faith shall not lose this nature save if and when there are acts which demonstrate that the possessor is not unaware that he possesses the thing improperly.</p> <p>Art. 435</p> <p>It shall be presumed that possession continues to be enjoyed in the same capacity in which it was acquired, unless there is evidence to the contrary.</p> <p>Art. 436</p> <p>Only things and rights which are capable of appropriation may be subject to possession.</p> <p>Art. 437</p> <p>The possessor's good faith consists of the belief that the person from</p>

⁵⁷ Idem.

<i>SPAIN – ESPAGNE</i>	
	<p>whom he received the thing was its owner, and could transfer ownership thereof. Art. 1950 Civil Code⁵⁸</p> <p>Concerning due diligence, the 1995 UNIDROIT Convention entered into force on 1 November 2002.</p>
Definition of due diligence in the code of ethics	No
<i>Operational tools</i>	
Administration dealing with illicit traffic	Ministry of Culture
Specialized Police Unit	Central Historical Heritage Unit of the Civil Guard (Guardia Civil) and the Historical Heritage Brigade of the National Police Force. Ministry of the Interior.
Specialized Customs Unit	Yes
<i>Technical tools</i>	
Database on cultural goods and national treasures	<p>Movable property on the Register of Property of Cultural Interest Run by the Ministry of Culture http://www.mcu.es/bienes/cargarFiltroBienesMuebles.do?layout=bienesMuebles&cache=init&language=es</p>
Database on goods of religious value	<p>Database under construction.</p> <p>In 1985, the central government asked the ecclesiastical authorities to prepare, within 10 years, an inventory of all property belonging to the church in Spanish territory since law 16/1984 on historical heritage (and set up a database). In 1995, as the inventory had not yet been completed, the Ministry of Culture extended the deadline by a further 10 years. A final extension of 7 years was granted in 2005.</p>
Database on private collections	(information not provided)

⁵⁸ All translations of the Civil Code from
<http://www.mjusticia.gob.es/cs/Satellite/es/1215198252168/DetalleInformacion.html>

<i>SPAIN – ESPAGNE</i>	
<p>Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)</p>	<p>“Dulcinea” database Managed by the National Police Force. Ministry of the Interior. Spanish Historical Heritage Brigade. The database is not accessible to the public. The provincial delegates and the Spanish Historical Heritage Brigade have exclusive access to the database.</p> <p>The “stolen works” database Managed by the Historical Heritage Group of the Central Unit of the Civil Guard. http://www.guardiacivil.org/patrimonio/busc_robadas.jsp</p>

<i>SWEDEN – SUEDE</i>	
Legislation ⁵⁹	
Legal definition of cultural good and / or national treasure	<p>Cultural good There is no definition of what is a cultural good in Sweden. The Act contains provisions on the protection and preservation of cultural environment (Ancient monuments, remains and find) Art.3 of Chapter 2 of the Heritage Conservation Act (1988:950) (including amendments up to and including SFS 2002:1090)</p> <p>National treasure The notion of national treasure is not used in the internal legislation. The criterion used is “of great importance to the national cultural heritage” Heritage Conservation Ordinance (1988:1188) including amendments up to and including SFS 2002:970</p>
Legal definition of theft of cultural goods	No (but general definition of theft Chapter 8 1 §, the Swedish Penal Code, SFS 1962:700)
Legal definition of handling	<p>Receiving A person who</p> <ol style="list-style-type: none"> 1. takes possession of something of which another has been dispossessed by a crime, and does so in such a manner that the nature thereof renders its restitution difficult, 2. procures an improper gain from another's proceeds of crime, 3. improperly promotes the opportunity for another to take advantage of property emanating from the proceeds of crime, or the value of such property, 4. assists in the removal, transfer, or sale of property which is derived from the proceeds of crime, or takes some similar measure, with the intent of concealing the origin of property, or 5. by a demand, transfer or other similar means asserts a claim arising from a crime, shall be sentenced for receiving to imprisonment for at most two years. <p>A person who, in business activities or as a part of business activities which are conducted habitually or otherwise on a large scale, acquires or receives something which may reasonably be assumed to have been misappropriated from another person by a crime, and does so in such a manner that the nature thereof renders its restitution difficult, shall be similarly sentenced for receiving. If the crime referred to in the first or second, paragraph is gross, imprisonment for at least six months and at most six years shall be</p>

⁵⁹ Legal texts provided by Mr Adlercreutz, ICOM Sweden and Mrs Eriksson, lawyer at Swedish National Board.

<i>SWEDEN – SUEDE</i>	
	<p>imposed. (Law 1993:207) Section 6, Chapter 9 §§ 6-7 of the Swedish Penal Code SF 1962:700</p> <p>If a crime under Section 6 is considered to be petty, imprisonment for at most six months or a fine shall be imposed for petty receiving. A sentence for petty receiving shall also be imposed on a person who</p> <ol style="list-style-type: none"> 1. in a case other than that provided for in Section 6, second, paragraph, acquires or receives something in such a manner that the nature thereof renders restitution difficult which may reasonably be assumed to have been misappropriated from another person by a crime, 2. in a case as provided for in Section 6, first, paragraph, did not realise, but had reasonable cause to assume that a crime was involved, or 3. in a manner as provided for in Section 6, first, paragraph, point 1, participated in the crime whereby property was misappropriated from another and did not realise, but had reasonable cause to assume, that a crime had been committed. (Law 1991:451) <p>Section 7, Chapter 9 §§ 6-7 of the Swedish Penal Code SF 1962:700</p> <p>See also Section 17 of the Heritage Conservation Act: Penalties Provisions concerning penalties for the illegal export of cultural goods from Sweden and for attempted offences of this kind are contained in the Smuggling Penalties Act (2000:1225).</p>
Legal definition of good faith or due diligence	<p>Act on Acquisition of Movable Property in Good Faith SFS 1986/796</p> <p>Concerning due diligence, 1995 UNIDROIT Convention will enter into force on 1 December 2011.</p>
Definition of due diligence in the code of ethics	(information not provided)
<i>Operational tools</i>	
Administration dealing with illicit traffic	<p>National Heritage Board (section 32 of the ordinance) under the auspices of the Ministry of Culture (http://www.raa.se/cms/en/our_mission.html) Royal Library (www.kb.se) National Heritage Board (www.raa.se) National Archives(www.riksarkivet.se) National Art Museums (www.nationalmuseum.se) including Prince Eugen's Waldemarsudde Art Museum or the Nordic Museum Foundation (www.nordiskamuseet.se)</p>
Specialized Police Unit	(information not provided but there seems to be a coordinator of cultural heritage crimes at the National Police Board)
Specialized	HK Custom office

<i>SWEDEN – SUEDE</i>	
Customs Unit	
Technical tools	
Database on cultural goods and national treasures	Database on Swedish cultural objects prohibited to export Run by the National Heritage Board http://www.eoco.org/index_en.html
Database on goods of religious value	Database on goods of religious value Held in churches
Database on private collections	(information not provided)
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	Database on stolen cultural objects Held by the national Police No public access

<i>CROATIA – CROATIE</i>	
Legislation ⁶⁰	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Cultural goods</p> <p>Cultural goods are of interest to the Republic of Croatia and receive its special protection. Cultural goods, as defined by this Law, are:</p> <ul style="list-style-type: none"> -movable and immovable items of artistic, historical, paleontological, archaeological, anthropological and scientific importance; -archaeological finds and archaeological zones, landscape and its components that bear witness to human presence in that area, and have an artistic, historical and anthropological value; -intangible forms and phenomena of human spiritual creativity in the past, as well as documentation and bibliographic heritage, and -buildings and other facilities that permanently preserve or display cultural goods and documentation concerning them. <p>According by the Law on Protection and Preservation of Cultural Goods from 1999 and its amended version from 2003 (Official Gazette nos. 69/99,151/03,157/03 Corr. 87/09, 88/10)</p> <p>Movable cultural goods</p> <p>Movable cultural goods are</p> <ul style="list-style-type: none"> -Collections of items in museums, galleries, libraries and other institutions, as well as in other legal entities, national and administrative bodies, including those with physical persons; -Church inventories and items; -Archive material, records, documents, letters, manuscripts; -Films; -Archaeological finds; -Works of fine and applied art and design; -Ethnographic items; -Old and rare books, currency, securities, postage stamps and other printed material; -Documentation concerning cultural goods; -Theatre stage requisites, sketches, costumes, etc.; -Usable items (furniture, clothes, weapons, etc.), traffic and transport vehicles and equipment, items which are important in bearing witness to the development of science and technology. <p>Article 8 Law on the Protection and Preservation of Cultural Goods</p>

⁶⁰ Information on legislation by Mrs Kavur, Ministry of Culture.

<i>CROATIA – CROATIE</i>	
	<p>National treasure Existence of a notion of national treasure or other relevant cultural good of national cultural heritage where the circulation is not permitted</p>
Legal definition of theft of cultural goods	<p>Larceny (1) Whoever takes away the movable property of another with an aim to unlawfully appropriate it shall be punished by a fine or by imprisonment not exceeding three years. (2) If the stolen property is of small value and the perpetrator acts with an aim to appropriate the property of such value, he shall be punished by a fine of up to one hundred and fifty daily incomes or by imprisonment not exceeding six months. (3) Criminal proceedings for the criminal offence referred to in paragraph 2 of this Article shall be instituted by a private charge while, if state property is stolen, criminal proceedings shall be instituted following a motion. (4) If the perpetrator returns the stolen property to the injured party prior to learning that he has been discovered, the court may remit the punishment. (5) The attempt of the criminal offence referred to in paragraph 1 of this Article is punishable. Art. 216 Criminal code</p> <p>Aggravated Theft (1) A punishment of imprisonment for six months to five years shall be inflicted on a perpetrator who commits a theft (Article 216, paragraph 1): 1. by breaking in, entering by force or otherwise overcoming great obstacles in order to come to property within closed buildings, rooms, safes, wardrobes or other closed rooms or enclosed areas; 2. in a particularly dangerous or particularly brazen manner; 3. by taking advantage of conditions caused by a fire, flood, earthquake or another calamity; 4. by taking advantage of the helplessness or some other particularly difficult situation of another. (2) The same punishment as referred to in paragraph 1 of this Article shall be inflicted on a perpetrator of the criminal offence of theft (Article 216, paragraph 1): 1. if the stolen property is of great value and the perpetrator acts with an aim to appropriate the property of such value; 2. if the stolen property is used for religious purposes or if the property is stolen from a church or other building or room serving for the practice of religion; 3. if a piece of cultural heritage, or an object of scientific, artistic, historical or technical significance is stolen, or the</p>

<i>CROATIA – CROATIE</i>	
	<p>stolen property is included in a public collection, a protected private collection, or is exhibited to the public.</p> <p>(3) Fine or imprisonment not exceeding three years shall be inflicted on a perpetrator who commits a theft (Article 216, paragraph 2) in the manner and under the circumstances referred to in paragraph 1 or paragraph 2, points 2 or 3 of this Article.</p> <p>(4) Imprisonment for one to eight years shall be inflicted on a perpetrator who commits a theft (Article 216, paragraph 1) as a member of a group or if he has in his possession a weapon or dangerous instrument for the purpose of attack or defence.</p> <p>(5) The attempt of the criminal offence referred to in paragraph 3 of this Article is punishable.</p> <p>Art. 217 Criminal code</p>
Legal definition of handling	<p>Concealing</p> <p>Whoever purchases, receives in pledge or otherwise acquires, conceals or resells an object which he knows was acquired by a criminal offence or that which has been received for such an object as the result of a sale or exchange shall be punished by a fine or by imprisonment not exceeding three years.</p> <p>Art. 236 Criminal code</p>
Legal definition of good faith or due diligence	<p>Good faith</p> <p>There are no specific Acts concerning the term of Good Faith although the term can be interpreted within some Acts of the Law on Protection and Preservation of Cultural Goods (Act 36, 37-39; Restrictions to transactions involving a cultural good)</p> <p>Concerning due diligence, the UNIDROIT Convention entered into force on 1 March 2001.</p>
Definition of due diligence in the code of ethics	The ICOM Code is followed.
<i>Operational tools</i>	
Administration dealing with illicit traffic	<p>Ministry of Culture</p> <p>Directorate for Cultural Heritage Protection and nineteen departments for conservation throughout the Republic of Croatia and City Institute for Protection of Cultural and Natural Monuments for Zagreb City.</p> <p>http://www.min-kulture.hr/default.aspx?id=4607</p>
Specialized Police Unit	<p>Ministry of Interior,</p> <p>Office for combating corruption and organized crime</p> <p>Organized Crime Department</p>

<i>CROATIA – CROATIE</i>	
Specialized Customs Unit	(information not provided)
Technical tools	
Database on cultural goods and national treasures	<p>Database on cultural goods</p> <p>According to the Law on the Protection and Preservation of Cultural Goods, significant cultural goods are registered in the Register of Cultural Goods of the Republic of Croatia and enjoy special protection.</p> <p>The Register is a public document under the authority of the Ministry of Culture and consists of three lists:</p> <ul style="list-style-type: none"> - List of registered cultural goods; - List of cultural goods of national significance; - List of cultural goods under preventive protection
Database on goods of religious value	(information not provided)
Database on private collections	(information not provided)
<p>Database on stolen cultural objects / displaced / unlawfully possessed</p> <p>(database's name, name of the institution in charge, link)</p>	<p>Database on stolen cultural goods</p> <p>Run by the Ministry of Interior</p> <p>No public access</p> <p>Database</p> <p>Run by the Ministry of Culture</p> <p>Database is in preparation phase</p>

<i>IRAQ – IRAK</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Antiquities Movable and fixed property or assets, not less than two hundred (200) years old, that where built, manufactured, sculpted, produced, written, sketched, or photographed by man. The term “antiquities” also encompasses all human and animal skeletons as well as plant fossils Art.4 al.7 Antiquities and Heritage Law⁶¹</p> <p>Cultural Heritage Materials Movable and fixed property or assets that are less than two hundred (200) years old and that are of historic, patriotic, national, religious, or artistic value and that are designated to have such value in a decree issued by the minister Art.4 al.8 Antiquities and Heritage Law⁶²</p>
<p>Legal definition of theft of cultural goods</p>	<p>Theft of cultural goods Any person who has stolen an antiquity or a heritage object belonging to the authority responsible for antiquities is punished with a prison sentence of seven to fifteen years and a fine equal to six times the value of the object stolen in the event of non-restitution of the antiquity or the heritage object. If the theft is committed by a person holding a position of responsibility in the management, protection or surveillance of the antiquity or heritage object which was stolen, they will face life imprisonment.</p>

⁶¹ http://www.unesco.org/culture/natlaws/media/pdf/iraq/ir_law55200_engtno.pdf

⁶² Idem.

<i>IRAQ – IRAK</i>	
Legal definition of handling	<p>Handling</p> <p>1. Without prejudice to any greater penalty prescribed by law, any person who knowingly obtains, conceals or makes use of any goods acquired as a result of a crime or disposes of such goods in any way is punishable by a term of imprisonment not exceeding seven years.</p> <p>2. The penalty will be detention if the offence, as a result of which such goods are acquired, is a crime of lesser seriousness but it will not exceed the maximum limit prescribed for that offence as long as the person who obtained, concealed or made use or disposed of such goods was not a party to the commission of the offence</p> <p>Art 460 al.1 Criminal Code⁶³</p>
Legal definition of good faith or due diligence	<p>Good faith</p> <p>Good faith is always presumed until the contrary is proven. A person has acted in good faith if he is in possession of the object without knowing that he is violating another person's right.</p> <p>Art. 1148(1) of the Civil Code</p> <p>Due diligence</p> <p>There are no provisions concerning the definition of due diligence in Iraqi law.</p> <p>However, dealers of works of art and heritage objects between 50 and 200 years old must state the exact provenance of each object in their records.</p> <p>Art. 5 of instruction No. 3 of 1995</p>
Definition of due diligence in the code of ethics	(information not provided)
Operational tools	
Administration dealing with illicit traffic	Special units created within the parliament and the Council of Ministers.
Specialized Police Unit	(information not provided)
Specialized Customs Unit	(information not provided)
Technical tools	
Database on cultural goods and national treasures	(information not provided)

⁶³ Based on a non official translation on http://law.case.edu/saddamtrial/documents/Iraqi_Penal_Code_1969.pdf

<i>IRAQ – IRAK</i>	
Database on goods of religious value	(information not provided)
Database on private collections	(information not provided)
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	Database on stolen Iraqi cultural goods Run by INTERPOL Public access after registration.

<i>SWITZERLAND – SUISSE</i>	
Legislation	
Legal definition of cultural good and / or national treasure	<p>Cultural property 1 Cultural property is defined as significant property from a religious or universal standpoint for archaeology, pre-history, history, literature, arts or sciences belonging to the categories under Article 1 of the UNESCO Convention of 1970. Art. 2 al. 1 Cultural Property Transfer Act (CPTA ; RS 444.1)⁶⁴</p> <p>Cultural property of significant importance 1 Cultural property of the Confederation of significant importance for the cultural heritage is registered in the Federal Registry. 2 Registration has the following effect: a. cultural property may neither be acquired by adverse possession nor acquired in good faith; b. the claim for return is not subject to a statute of limitation; c. the definitive export of the cultural property from Switzerland is prohibited. Art. 3 al. 2 Cultural Property Transfer Act (CPTA ; RS 444.1)⁶⁵</p> <p>Cultural heritage <i>Cultural heritage</i> is considered to be the entirety of cultural property belonging to one of the categories under Article 4 of the UNESCO Convention 1970. Art. 2 al. 2 Cultural Property Transfer Act (CPTA ; RS 444.1)⁶⁶</p>
Legal definition of theft of cultural goods	No
Legal definition of handling	<p style="text-align: center;">Handling stolen goods</p> <p>1. Any person who takes possession of, accepts as a gift or as the subject of a pledge, conceals, or assists in the disposal of goods which he knows or must believe have been acquired by way of an offence against property shall be liable to a custodial sentence not exceeding five years or to a monetary penalty. The offender shall be liable to the penalty applicable to the original offence if that penalty is reduced. If the original offence is prosecuted only on complaint, the handling of stolen goods is prosecuted only if a complaint has been made in respect of</p>

⁶⁴ <http://www.bak.admin.ch/themen/kulturguetertransfer/01104/index.html?lang=en>

⁶⁵ Idem.

⁶⁶ Idem.

<i>SWITZERLAND – SUISSE</i>	
	<p>the original offence.</p> <p>2. If the offender acts for commercial gain, he shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of not less than 90 daily penalty units.</p> <p>Art. 160 Criminal Code (CP ; RS 311)⁶⁷</p>
<p>Legal definition of good faith or due diligence</p>	<p>Good faith</p> <p>Where the law makes a legal effect conditional on the good faith of a person, there shall be a presumption of good faith.</p> <p>Art. 3 al. 1 Civil Code (CC ; RS 210)⁶⁸</p> <p>No person may invoke the presumption of good faith if he or she has failed exercise the diligence required by the circumstances</p> <p>Art. 3 al. 2 Civil Code (CC ; RS 210)⁶⁹</p> <p>Due diligence</p> <p>The Federal Supreme Court has developed special case law with regard to the acquisition of antiquities (risk trade).</p>
<p>Definition of due diligence in the code of ethics</p>	<p>Some museums explicitly refer to the ICOM Code of Ethics (http://www.ville-ge.ch/meg/pdf/politique_acquisition.pdf).</p> <p>Art. 15 CPTA:</p> <p>1. Federal institutions are prohibited from acquiring or exhibiting cultural property that:</p> <p>a. was stolen, lost against the will of the owner or illegally excavated;</p> <p>b. are part of the cultural heritage of a state and have been illicitly exported from the same.</p> <p>2. Federal institutions to whom such property is offered must immediately report it to the specialized body.</p> <p>These special arrangements are more restrictive. They involve an ‘objectification’ of the duty of diligence of the institutions of the Confederation. In other words, it is not enough for the institutions of the Confederation to perform due diligence. If the object is stolen, acquisition is prohibited. If the illicit origin is discovered following acquisition, the institutions of the Confederation must <i>a fortiori</i> return the object.</p>
Operational tools	
<p>Administration dealing with illicit traffic</p>	<p>Federal Office of Culture</p> <p>Specialized Unit Transfer of Cultural Property</p>
<p>Specialized Police</p>	<p>Unit specialized in traffic in cultural goods, integrated into the General and Economic Crime Commission of the Federal Criminal Investigation</p>

⁶⁷ http://www.admin.ch/ch/e/rs/311_0/a160.html

⁶⁸ <http://www.admin.ch/ch/e/rs/210/a3.html>

⁶⁹ Idem.

<i>SWITZERLAND – SUISSE</i>	
Unit	<p>Department (Fedpol). This unit has no powers of investigation . Its role is to coordinate the cantonal police forces in the event of action involving several cantons, and to coordinate the actions of Switzerland with other countries, generally through INTERPOL.</p> <p>Some cantons have a specialized unit within the cantonal police.</p>
Specialized Customs Unit	No
Technical tools	
Database on cultural goods and national treasures	<p>The federal inventory established in Art. 3 of the LTBC has not yet been created.</p> <p>There are cantonal databases for internal use only, for example in the canton of Fribourg: http://www2.fr.ch/sbc/recen/meubles/base_don/base_don.htm.</p> <p>Art. 4(1) of the LTBC stipulates that the cantons can connect their databases to the database of the Confederation (which does not yet exist).</p>
Database on goods of religious value	<p>There are cantonal databases for internal use only, for example in the canton of Fribourg: http://www2.fr.ch/sbc/recen/meubles/base_don/base_don.htm.</p>
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database on Stolen Cultural Property Run by Swiss Police http://www.swisspolice.ch/f/4_sachfdg/index.htm (« entrée » objets d'art)</p> <p>Cantonal police databases The cantonal police sometimes have a separate tab in their databases for “cultural goods” (works of art, watches, jewellery, etc.), for example the cantonal police of Ticino http://www4.ti.ch/di/pol/chi-lha-visto/oggetti-rubati cantonal police of Valais http://www.vs.ch/Navig/navig.asp?MenuID=2061</p> <p>Other cantonal police forces, although they do not have a dedicated tab, have many stolen “cultural goods” in their databases, such as cantonal police of Lucerne http://www.polizei.lu.ch/index/fahndung/sachfahndung.htm cantonal police of Zurich http://www.kapo.zh.ch/internet/sicherheitsdirektion/kapo/de/fahndungen/gesuchtes_diebesgut.html</p>

<i>TURKEY – TURQUIE</i>	
Legislation	
<p>Legal definition of cultural good and / or national treasure</p>	<p>Movable Cultural and Natural Properties to be Conserved</p> <p>Movable cultural and natural properties to be conserved are as follows:</p> <p>a) all kinds of cultural and natural properties that belong to geological, prehistoric or historic periods and that have documentary significance in terms of geology, anthropology, prehistory, archaeology and art history reflecting the social, cultural, technical and scientific characteristics and levels of their periods.</p> <p>All kinds of animal or plant fossils, human skeletons, flints (sleeks) obsidians, all kinds of bone or metallic tools, encaustic tile, ceramic, similar pots and pans, statues, figures, tablets, cutter, defender and striking weapons, icons, glass objects, ornaments, ring stones, earrings, needles, hooks, seals, bracelets and similar things, masks, scales, coins, written or stamped slabs, handwritten or gilded books, miniatures, engravings which have artistic value, oil-paint or water colour paintings, relics, medallions, encaustic tile, soil, glass, wood, cloth and similar movable heritage and their pieces.</p> <p>The ethnographic cultural properties concerning science, religion and mechanical arts including human made tools and materials reflect social life of their citizens.</p> <p>Coins belonging to Ottoman Emperors Abdulmecit, Abdulaziz, Murat V, Abdulmecit II, Mehmet Resat V and Vahidettin and the coins of the same period can be sold and bought in the country without being subject to registration according to this Legislation.</p> <p>Coins that are not in the scope of this Article are subject to the General Decrees of this Legislation.</p> <p>b) For their significances in our National history, documents and other property with historical value that belong to the National War of Independence and the foundation of the Republic of Turkey and the personal belongings of Mustafa Kemal ATATURK, his documents, books, writings and similar movables.</p> <p>Art. 23 Legislation for the conservation of cultural and natural property⁷⁰</p>

⁷⁰ http://www.unesco.org/culture/natlaws/media/pdf/turkey/turk_legislation2863_conservation_culturalnaturalproperty_engtno.pdf

<i>TURKEY – TURQUIE</i>	
Legal definition of theft of cultural goods	No
Legal definition of handling	(not possible to access the Turkish Criminal Code in English)
Legal definition of good faith or due diligence	<p>Good faith (not possible to access the Turkish Civil Code in English)</p> <p>Due diligence There is no precise definition of due diligence. However, the regulations concerning the classification, registration and admission of movable cultural and natural goods has established a procedure for verifying the provenance of objects to be acquired by public and private museums. A special commission is responsible for verifying the provenance of the object to be acquired by the museum.</p>
Definition of due diligence in the code of ethics	No reference to the ICOM Code of Ethics.
<i>Operational tools</i>	
Administration dealing with illicit traffic	Ministry of Culture
Specialized Police Unit	(information not provided)
Specialized Customs Unit	(information not provided)
<i>Technical tools</i>	
Database on cultural goods and national treasures	(information not provided)
Database on goods of religious value	No
Database on private collections	No
Database on stolen cultural objects / displaced / unlawfully possessed (database's name, name of the institution in charge, link)	<p>Database on stolen cultural property Run by the Ministry of Culture http://www.kultur.gov.tr/EN/ana-sayfa/2-0/20110608.html</p>

Annex 2 Criminal offences

Common law offences

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<i>AUSTRIA – AUTRICHE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	§ 127 CC Removal of movable property belonging to another with the intention of obtaining material benefits for oneself or another by appropriating that property.	1/ § 128(1) CC - theft from a place of worship or theft of objects used for worship by a church or religious community established in the country; - theft of objects of widely recognized scientific, ethnological, artistic or historical value (if they are part of a collection accessible to the public or are in a place accessible to the public); - theft of objects with a value of more than €3,000. 2/ § 128(2) CC theft of objects with a value of more than €50,000.
* Specific mention of cultural property	No.	Yes.
* Sentences	6 months' imprisonment and fine	1/ Up to 3 years' imprisonment 2/ 1 to 10 years' imprisonment
* Prescription - Time limit and conditions	1 year from the date of commission of the offence	§ 57 CC The time limit depends on the penalty imposed 1/ 5 years 2/ 10 years (from the date of commission of the offence)
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	1/ § 164(1) CC The fact of assisting the perpetrator of an offence against the property of a third party with the handling or exploitation of the object resulting from that offence.	3/ § 164(3) CC Handling an object with a value of more than €3,000. 4/ § 164(4) Handling an object with a value of more than €50,000 or organized handling (<i>gewerbsmäßig</i>) or if aware of the

Common law offences

<i>AUSTRIA – AUTRICHE</i>		
	2/ § 164(2) CC The fact of purchasing, obtaining for oneself or obtaining for a third party such an object.	aggravating causes of the original offence.
* Sentences	1/ Fine or up to 6 months' imprisonment 2/ Fine or up to 2 years' imprisonment	3/ 6 months to 5 years' imprisonment 4/ 6 months to 5 years' imprisonment
* Prescription - Time limit and conditions	1/ 1 year 2/ 1 year	3/ 5 years 4/ 5 years
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>BELGIUM – BELGIQUE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 461 CC Any person who has taken by unlawful means something that does not belong to him is guilty of theft.	Arts. 468 <i>et seq.</i> CC If committed by means of burglary, breaking and entering or skeleton keys, if committed by a civil servant in the performance of his duties, if involving the fraudulent use of a civil service title, or the use of violence or threats.
* Specific mention of cultural property	No	No
* Sentences	Art. 463 CC The types of theft not specified in this chapter will be punished with imprisonment of between 1 month and 5 years and a fine of €26 to €500.	Arts. 468 <i>et seq.</i> CC 5 to 10 years' imprisonment for violence and threats. Sentences of 10 to 15 years up to 20 years for other aggravating circumstances.
* Prescription - Time limit and conditions	5 years from the date of commission of the offence	5 years from the date of commission of the offence
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	1/ Art. 505(1) No. 1 CC Any person who has handled all or part of the objects removed, misappropriated or obtained by means of a crime or an offence will be punished. 2/ Art. 505(1) No. 2 CC: amended by the law of 10 May 2007 Any person who has purchased, received against payment or free of charge, possessed, held or handled the objects referred to in Article 42(3) when they knew or should have known the origin of those objects at the start of such	

<i>BELGIUM – BELGIQUE</i>		
	operations.	
* Sentences	15 days' to 5 years' imprisonment and a fine of €26 to €100,000.	
* Prescription - Time limit and conditions	5 years Dispute: 1/ para. 1: Instantaneous offence 2/para. 2: Continuing offence: the period starts on the day the handler is separated from the object.	
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>BULGARIA – BULGARIE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 194 CC 1) Theft of another's property with the intention of appropriating it. 2) A theft has been committed even if part of the property belongs to the offender.	
* Specific mention of cultural property	No	
* Sentences	Up to 8 years' imprisonment. In some cases, custodial sentence of up to 1 year, or suspended prison sentence, or fine of 100 to 300 Lev	
* Prescription - Time limit and conditions		
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 215 CC Any person who conceals, acquires or assists with the appropriation of movable property that he knows or suspects has been obtained by a third party as a result of a crime or other act that constitutes a "public danger."	Art. 278 A CC 1) Any person who discovers a cultural monument or other object of great historical value and knowingly neglects to report that discovery to the authorities within two weeks. 2) If the cultural monument is of particularly great scientific or artistic value.
* Sentences	Prison sentence of up to 5 years, but the penalty may not be more severe than that established for the crime itself.	1) Prison sentence of up to 1 year or a fine of 500 to 1000 Lev. 2) Imprisonment can be up to 2 years and the fine of 1000 to 5000 Lev.
*		

<i>BULGARIA – BULGARIE</i>	
Prescription - Time limit and conditions	
Trafficking in cultural property	
* Sentences	Up to a maximum of 10 years.
* Prescription - Time limit and conditions	

<i>CYPRUS – CHYPRE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	<p>Art. 255 CC (Chap. 155) A person commits theft if he obtains and takes away any object that can be stolen without the consent of the owner, in a fraudulent manner and without any right based on good faith, with the intention, at the moment of removal, of permanently depriving the owner of said object.</p> <p>Art 237 CC Theft is an offence against property, consisting of the removal of the movable object using force, violence or intimidation.</p>	<p>Aggravated theft Art. 235(1) CC Burglary. Art. 241 CC Aggravating circumstances if involving property of cultural, historical, scientific or artistic significance.</p>
* Specific mention of cultural property	No	Yes
* Sentences	3 years' imprisonment unless, in view of the object stolen or the circumstances of the theft, another penalty is provided for.	3 years' imprisonment unless, in view of the object stolen or the circumstances of the theft, another penalty is provided for.
* Prescription - Time limit and conditions	No prescription	No prescription
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	<p>Arts. 215 and 278 A CC Handling of cultural property, whether or not it has been formally classified as heritage.</p> <p>Art. 306 CC (Chap. 155): Any person who receives or possesses an object in the knowledge that it has been stolen or obtained in any manner that constitutes the commission of an offence or a crime is guilty of a criminal offence of</p>	

Common law offences

<i>CYPRUS – CHYPRE</i>		
	the same degree (offence or crime).	
* Sentences	(a) in the event of a crime, 5 years (b) in the event of an offence, 2 years	
* Prescription - Time limit and conditions	No prescription	
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>CZECH REPUBLIC – REPUBLIQUE TCHEQUE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code		Aggravating circumstances depending on the type of offender, the extent of the damage and the circumstances of the illegal act.
* Specific mention of cultural property	No	No
* Sentences	- 3 years - 10 years when the penalty imposed is less than 10 years' imprisonment - 20 years	
* Prescription - Time limit and conditions		
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Illegal handling of cultural property constitutes an act of aiding and abetting (Art. 251 CC) or complicity due to negligence (Art. 252 CC)	
* Sentences		
* Prescription - Time limit and conditions	3 years 10 years when the penalty imposed is less than 10 years' imprisonment 20 years Instantaneous or continuing offence	
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>DENMARK – DANEMARK</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Act 1235 of 26 October 2010, Chapter 28	
* Specific mention of cultural property	No	
* Sentences	Fine and up to 18 months' imprisonment	
* Prescription - Time limit and conditions	5 years	
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Act 1235 of 26 October 2010, Chapter 28	
* Sentences	No	
* Prescription - Time limit and conditions	5 years	
Trafficking in cultural property		
* Sentences	Up to 1 year's imprisonment	
* Prescription - Time limit and conditions	75 years	

<i>ESTONIA – ESTONIE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 199(1) CC Unlawful taking of movable property belonging to another with the intention of appropriating it.	1/ Art. 199(2) and (3) (2) Object of great scientific, cultural or historical significance. (3) By a criminal organization. 2/ Art. 107 Destruction, damaging or illicit appropriation of a cultural monument, church or other structure or object of religious signification, or work of art or science or archive of cultural value.
* Specific mention of cultural property	No	Yes
* Sentences	Fine or up to a maximum of 3 years' imprisonment	1/ (2) Fine or up to a maximum of 5 years' imprisonment 1/ (3) 2 to 10 years' imprisonment 2/ 1 to 5 years' imprisonment
* Prescription - Time limit and conditions	Art. 81 CC 5 years	1/ (2) 5 years (criminal offence in the second degree) 1/ (3) 10 years (criminal offence in the first degree) 2/ 5 years
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 202 Acquisition, storage or marketing of property received through commission of a criminal offence.	Criminal organization of at least two offenders or on a large scale.
* Sentences	Fine and up to a maximum of 1 year's imprisonment	Fine or 3 years' imprisonment
* Prescription - Time limit and conditions	5 years	5 years

<i>ESTONIA – ESTONIE</i>	
Trafficking in cultural property	
* Sentences	No
* Prescription - Time limit and conditions	No

<i>FINLAND – FINLANDE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 2, Ch. 28 CC	If the value of the object is high.
* Specific mention of cultural property	No	No
* Sentences	Fine or up to a maximum of 18 months' imprisonment	4 months' to 4 years' imprisonment
* Prescription - Time limit and conditions	5 years from the date of commission of the offence	10 years
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 1, Ch. 32 CC	If the value of the object is high.
* Sentences	Fine or up to a maximum of 18 months' imprisonment	4 months' to 4 years' imprisonment
* Prescription - Time limit and conditions	5 years from the date of commission of the offence (instantaneous offence)	10 years
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>FRANCE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 311(1) CC Unlawful taking of property belonging to another.	Art. 311(4) No. 2 CC Classified movable object, archaeological discovery, cultural property in the public domain.
* Specific mention of cultural property	No	Yes
* Sentences	3 years' imprisonment and €45,000 fine	7 years' imprisonment and €100,000 fine. 10 years' imprisonment and €150,000 fine if there are other aggravating circumstances (e.g.: burglary) The fine may be increased to up to half the value of the object stolen.
* Prescription - Time limit and conditions	3 years from the date of commission of the offence	3 years from the date of commission of the offence
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 321(1) CC The act of concealing, retaining or transferring an object obtained by means of a crime or an offence, or knowingly benefiting from the product of a crime or offence.	Habitual handling or handling using facilities provided by a professional activity or organized gang or if the original offence is aggravated (e.g.: cultural property)
* Sentences	5 years and €375,000 fine	10 years' imprisonment and €750,000 fine. The fine may be increased to up to half the value of the object handled.
* Prescription - Time limit and	3 years from the date on which the handler is no longer in possession of the object.	3 years from the date on which the handler is no longer in possession of the object.

<i>FRANCE</i>		
conditions	Continuing offence.	Continuing offence.
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>GERMANY – ALLEMAGNE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 242 StGB Unauthorized taking of movable property.	Art. 243 StGB Theft of objects of importance for science, culture, history or technical development (if on public display or part of a collection accessible to the public), Theft of objects from churches or other religious buildings (if directly used for worship), Theft committed on a regular basis. 2/ Art. 244 StGB On thefts from dwellings committed by means of burglary, deceit or breaking and entering.
* Specific mention of cultural property	No	Yes
* Sentences	5-10 years (aggravated theft)	5-10 years (aggravated theft)
* Prescription - Time limit and conditions	Art. 78 StGB 5 years for petty theft Counted from the date of commission of the offence	Art. 78 StGB 10 years for aggravated theft (e.g.: burglary) Counted from the date of commission of the offence
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 259 StGB The act of purchasing, obtaining for oneself or for a third party, with the aim of obtaining material benefits for oneself or another, an object resulting from a theft or other offence violating another's property rights, or storing or	Art. 260 StGB Handling committed on a regular basis or in an organized gang.

<i>GERMANY – ALLEMAGNE</i>		
	assisting with the storage of such an object.	
* Sentences	5-10 years (aggravated handling) Fine	5-10 years (aggravated handling) Fine
* Prescription - Time limit and conditions	Art. 78 StGB 5 years for petty theft Counted from the date of commission of the offence	Art. 78 StGB 10 years for aggravated theft (e.g.: burglary) Counted from the date of commission of the offence
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>GREECE – GRECE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 372 CC 1/ Unlawful taking (in full or in part) of movable property belonging to another with the aim of appropriation. 2/ The value of the property is particularly high.	Art. 374 CC Unlawful taking (i) of an object of worship from a place of worship, (ii) of an object of scientific, artistic, archaeological or historical importance from a collection on public display, a public building or a public place (iii) of an object being transported (iv) habitual theft or theft of goods with a value of more than €73,000.
* Specific mention of cultural property	No	Yes
* Sentences	1/ At least 3 months 2/ At least 2 years.	Up to a maximum of 10 years' imprisonment
* Prescription - Time limit and conditions	15 years: period counted from the date of commission of the offence	15 years: period counted from the date of commission of the offence
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 394 CC The concealment, purchase, receipt as security or receipt in any other manner, of an object obtained by means of an offence, or the transfer of retention of said object or complicity in such a transfer or arranging the retention of the object in question by others.	In relation to theft and embezzlement against the State or public corporations, where the object has a value of more than €150,000 (reference to Art. 1(2) of law 1608/1950).
* Sentences	10 days' to 5 years' imprisonment	5 to 20 years' imprisonment or life (if additional aggravating

<i>GREECE – GRECE</i>		
		circumstances)
* Prescription - Time limit and conditions	15 years	15 years
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>HUNGARY – HONGRIE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 316 CC	Art. 316(4) b) No. 2 and (7) a) CC - cultural property (crime) - object of great value - misappropriation of cultural property.
* Specific mention of cultural property	No	Yes
* Sentences	3 years	Up to 10 years depending on the value of the object
* Prescription - Time limit and conditions	3-10 years depending on the value of the object	3-10 years depending on the value of the object
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 326 CC	Handling of cultural property or objects of great value
* Sentences	3 years	Up to 10 years depending on the value of the object
* Prescription - Time limit and conditions	3-10 years depending on the value of the object Instantaneous offence: counted from the date of detention	3-10 years depending on the value of the object Instantaneous offence: counted from the date of detention
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>IRELAND – IRLANDE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Part 2, Sections 4 <i>et seq.</i> , Criminal Justice (Theft and Fraud Offences) Act 2001	
* Specific mention of cultural property	No	
* Sentences	Fine and up to a maximum of 10 years' imprisonment	
* Prescription - Time limit and conditions	No prescription for 'arrestable offences' (offences that are liable to a sentence of 5 years' imprisonment or more).	
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	A person is guilty of handling stolen property if (otherwise than in the course of the stealing) he or she, knowing that the property was stolen or being reckless as to whether it was stolen, undertakes or assists in its retention (Part 3, Sections 16 <i>et seq.</i> , Criminal Justice (Theft and Fraud Offences) Act 2001)	
* Sentences	The penalties incurred by the handler are the same as those incurred by the principal offender. However, the handler is not liable to a more severe sentence than that which applies to the principal offender.	
* Prescription - Time limit and conditions	No prescription for 'arrestable offences' (offences that are liable to a sentence of 5 years' imprisonment or more).	
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>ITALY – ITALIE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 624 CC (Furto = Theft) Taking possession of the movable property of another, by dishonestly taking it from its owner in order to obtain a benefit for himself or for another. Art. 624bis CC (Furto in abitazione e furto con strappo = Burglary and snatching)	Art. 625 CC Aggravating circumstances are the use of violence, the use of weapons, multiple offenders, theft in public places.
* Specific mention of cultural property	No	No
* Sentences	6 months' to 3 years' imprisonment plus a fine of €154 to €516 Burglary and snatching: 1 to 6 years' imprisonment plus a fine of €309 to €1,032	Up to 10 years if more than two aggravating circumstances
* Prescription - Time limit and conditions	Art. 157 CC 6 years The time limit is calculated from the date of the offence, based on the maximum duration of the sentence. It may be extended by a quarter in the event of acts that interrupt the period.	7.5 years
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 648 A person who, with a view to obtaining a profit for himself or another, purchases, receives or conceals money or property resulting from a crime, or acts as an intermediary for the purchase, receipt or concealment thereof.	
* Sentences	2 to 8 years plus a fine of €519 to €10,329	
*	Art. 157 CC	

<i>ITALY – ITALIE</i>		
Prescription - Time limit and conditions	The time limit is 8 years, which may be extended by a quarter in the event of acts that interrupt the period. Therefore, the maximum period is 10 years.	
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>LATVIA – LETTONIE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 175(1) Criminal Law 17/06/1998 Theft, concealed or otherwise, of movable property belonging to another.	1/ Art. 175(2) Repeat offence or offence committed by more than one person 2/ Art. 175(3) Breaking and entering, using storage or means of transport 3/ Art 175(4) Organized gang
* Specific mention of cultural property	No	No
* Sentences	Up to a maximum of 4 years' imprisonment, community work or a fine that may not be more than 100 times the monthly minimum wage	1/ 6 years; confiscation possible 2/ Up to a maximum of 10 years' imprisonment; confiscation possible 3/ Between 3 and 15 years' imprisonment; confiscation possible
* Prescription - Time limit and conditions	5 years: period counted from the date of commission of the offence	10 or 15 years depending on the seriousness of the offence (organized gang)
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 179(1) Criminal Law 17/06/1998 Illegal acquisition or retention of another's property, if committed by a person to whom the property had been entrusted.	1/ Art. 179(2) Repeat offence or offence committed by more than one person 2/ Art. 179(3) Offence committed on a large scale
* Sentences	Up to a maximum of 5 years, confiscation of the object, community work or a fine that may not be more	1/ 3 to 8 years' imprisonment 2/ 6 to 15 years'

<i>LATVIA – LETTONIE</i>		
	than 50 times the monthly minimum wage.	imprisonment
* Prescription - Time limit and conditions	Art. 56 Criminal Law 5 years Period counted from the date of commission of the offence.	1/ 10 years 2/ 15 years
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>LITHUANIA – LITUANIE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 178 CC Unlawful taking of property belonging to another	1/ Art. 178(3) - Objects of great value or scientific, cultural or historical significance - Organized gang 2/ Art. 180(3) Use of a weapon or explosives and objects of great value, or scientific, cultural or historical significance
* Specific mention of cultural property	No	Yes
* Sentences		1/ Up to a maximum of 8 years 2/ Up to a maximum of 10 years
* Prescription - Time limit and conditions	2, 5 or 8 years depending on the classification of the offence	1/ 10 years 2/ 15 years
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code		Art. 189 CC A person who acquires, uses or handles an object of great value or valuable objects of considerable scientific, historical or cultural signification, in the knowledge that the objects were obtained by criminal means.
* Sentences		Fine; up to a maximum of 4 years' imprisonment
* Prescription - Time limit and conditions		8 years
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>LUXEMBOURG</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Arts. 463 <i>et seq.</i> CC	If committed by means of burglary, breaking and entering or skeleton keys, if committed by a civil servant in the performance of his duties, if involving the fraudulent use of a civil service title.
* Specific mention of cultural property	No	No
* Sentences	1 month to 5 years' imprisonment and a fine of €251 to €5,000	5 to 10 years' imprisonment
* Prescription - Time limit and conditions	3 years from the date of commission of the offence	
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 505 CC	
* Sentences	15 days' to 5 years' imprisonment plus a fine of €25 to €5,000	
* Prescription - Time limit and conditions	3 years	
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>MALTA – MALTE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 284 CC	Art. 261 CC Theft is aggravated by violence, the means used, the value of the object stolen, the person of the victim of the theft, the place (public), the time, and the nature of the object stolen.
* Specific mention of cultural property	No	Art. 269 and 271 CC Indirectly Through the place and nature of the stolen object (national archive register)
* Sentences	Art. 285 CC 1 to 6 months' imprisonment A maximum of 3 months if the value of the stolen object is €23.29 or less	5 months to life depending on the aggravating circumstances
* Prescription - Time limit and conditions	Art. 688 CC 2 years	5 years to 20 years depending on the aggravating circumstances
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 334 CC Knowingly receiving or purchasing property that has been stolen or obtained by means of an offence	
* Sentences	Same as for the original offence	
* Prescription - Time limit and conditions	Art. 688 CC 2 years	
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>NETHERLANDS – PAYS-BAS</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Arts. 310 <i>et seq.</i> CC A person who dishonestly takes, in part or in full, property belonging to another, with the intention of misappropriating it, is guilty of theft	Art. 311(4) and (5) “Theft through the association of two or more persons”, “theft for which the perpetrator gained access (...) by means of breaking and entering, skeleton keys or using a fake uniform”, “theft with the intention of preparing or facilitating a terrorist offence” Art 312(4) “If the offence results in bodily harm
* Specific mention of cultural property	No	No
* Sentences	Arts. 310-312 CC 4 years’ imprisonment and a fine of €11,250	6 and 9 years’ imprisonment and a fine of €45,000
* Prescription - Time limit and conditions	6, 12 or 20 years	
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 416 A person who (a) Obtains, holds or transfers a piece of property or who creates a right <i>in personam</i> or a right <i>in rem</i> to a piece of property, or who confers such a right, knowing [at that time] that the property was obtained by means of a serious offence (b) Deliberately, for pecuniary reasons, holds or transfers a piece of property obtained by unlawful means or confers a right <i>in personam</i> or <i>in rem</i> to such	Art. 417 CC A person who habitually commits the offence of handling

Common law offences

<i>NETHERLANDS – PAYS-BAS</i>		
	property.	
* Sentences	4 years' imprisonment and a fine of €45,000	6 years' imprisonment and a fine of €45,000
* Prescription - Time limit and conditions	12 years	12 years
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>POLAND – POLOGNE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code		Arts. 294(2) and 295 CC Theft is aggravated when it involves an object of considerable cultural significance.
* Specific mention of cultural property	No	Yes
* Sentences	3 months' to 5 years' imprisonment	1 to 5 years' imprisonment
* Prescription - Time limit and conditions	10 years from commission of the offence	10 years
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	1/ Deliberate petty handling, Art. 291 CC Any person who acquires an object by means of an offence, who helps to transfer or conceal it. 2/ Inadvertent petty handling Committed when a person acquires or helps to transfer or conceal an object when he could and should suppose that the object has been acquired by means of an offence.	The object is of considerable value or considerable cultural significance
* Sentences	1/ 3 to 5 years' imprisonment and fine 2/ 2 years' imprisonment and fine	Up to 10 years' imprisonment 5 years if inadvertent handling
* Prescription - Time limit and conditions	1/ 10 years from commission of the offence 2/ 10 years from commission of the offence	15 years from commission of the offence (acquisition or assisting acquisition)
Trafficking in cultural property		

Common law offences

<i>POLAND – POLOGNE</i>	
* Sentences	No
* Prescription - Time limit and conditions	No

<i>PORTUGAL</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 204(2) d) CC	Arts. 210 and 213 CC - Property which is part of a public collection or on public display - Violence
* Specific mention of cultural property	Yes	Yes
* Sentences		Art. 213 CC 1 to 8 years' imprisonment (if the property is damaged or destroyed)
* Prescription - Time limit and conditions		10 years from the date of commission of the offence
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 231 CC	
* Sentences	6 months' to 8 years' imprisonment	
* Prescription - Time limit and conditions	10 years Continuing offence	
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>ROMANIA – ROUMANIE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 208 CC The act of unlawfully taking movable property from the possession or custody of another person without his consent, with the intention of misappropriating it.	Art. 209(2) a) CC The theft of property considered to constitute cultural heritage
* Specific mention of cultural property	No	Yes
* Sentences	1 to 12 years' imprisonment	3 to 15 years' imprisonment
* Prescription - Time limit and conditions	Art. 122 (1) b) 10 years	10 years
<p>Note: Entry into force of the Criminal Code planned for 1 October 2011 but constantly postponed.</p> <p>Art. 228 (new) Reduces the applicable penalties: 6 months to 3 years for petty theft and 1 to 5 years for aggravated theft.</p> <p>The prescription time limit has been reduced to 5 years</p>		
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 221 CC The act of receiving, obtaining or converting an object, or facilitating its exploitation, in the knowledge that the object has been obtained as a result of the commission of an act covered by criminal law, if the intention was to obtain material benefits for oneself or for another.	
* Sentences	3 months' to 7 years' imprisonment	
* Prescription - Time limit and conditions	8 years for individuals and 5 years for legal entities. Instantaneous or continuing offence depending on the form of the substantive element of the	

<i>ROMANIA – ROUMANIE</i>	
	offence.
<p>Note: Entry into force of the Criminal Code planned for 1 October 2011 but constantly postponed.</p> <p>New definition of handling: The act of receiving, obtaining or converting an object or facilitating its exploitation by a person who was either aware of or deduced from specific circumstances that the object in question was obtained as a result of the commission of an act covered by criminal law, even if the nature of that act was unknown.</p> <p>Art. 270 (new) Reduces the applicable penalties: 1 to 5 years and prescription time limit reduced to 5 years for all cases.</p>	
Trafficking in cultural property	
* Sentences	No
* Prescription - Time limit and conditions	No

<i>UNITED KINGDOM – ROYAUME UNI</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Theft Act 1968 ⁷¹ , Section 1 (1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it. (2) It is immaterial whether the appropriation is made with a view to gain, or is made for the thief's own benefit.	Aggravating circumstances when the value of the stolen property is high (at least £10,000)
* Specific mention of cultural property	No	Indirectly
* Sentences	Petty theft is punishable by up to a maximum of 7 years' imprisonment. In all cases, the stolen goods will be seized by the police (Section 26). The owner must then refer the matter to a court in order for the court to order restitution of the object by the police holding it as incriminating evidence. If the court has ordered restitution of the object to an apparent owner and not to the real owner, the real owner has six months in which to contest such restitution ⁷² .	Theft with the use or threat of violence (robbery) is punishable with life imprisonment (Section 8). Burglary is punishable with 14 years' imprisonment (Section 9). In all cases, the stolen goods will be seized by the police (Section 26). The owner must then refer the matter to a court in order for the court to order restitution of the object by the police holding it as incriminating evidence. If the court has ordered restitution of the object to an apparent owner and not to the real owner, the real owner has six months in which to contest such restitution ⁷³ .

⁷¹ This Act is not applicable in Scotland (Section 36).

⁷² Section 1(2) of the Police (Property) Act 1897. This Act does not apply to Scotland and was not applied in Ireland (and then in Northern Ireland) until 1997 (Section 3).

⁷³ Section 1(2) of the Police (Property) Act 1897. This Act does not apply to Scotland and was not applied in Ireland (and then in Northern Ireland) until 1997 (Section 3).

<i>UNITED KINGDOM – ROYAUME UNI</i>		
* Prescription - Time limit and conditions	<p>No time limit⁷⁴.</p> <p>It is simply admitted in case law that late proceedings can be considered abuse of process by the court.</p> <p>Moreover, the Limitation Act 1980 (Section 4) establishes a time limit of six years after which the title to the property expires.</p>	
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	<p>Section 22 of the Theft Act 1968</p> <p>(1) A person handles stolen goods if (otherwise than in the course of the stealing), knowing or believing them to be stolen goods, he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal or disposal, for himself or another person.</p> <p>Applicable to goods stolen abroad.</p>	<p>Dealing in Cultural Objects (Offences) Act 2003</p> <p>Specific offence of handling cultural objects</p> <p>The act of a person selling on or receiving a cultural object, knowing or believing that the object is tainted.</p> <p>Objects of historical, architectural or archaeological interest, which must have been excavated or removed from a building or structure of historical, architectural or archaeological interest where the object has formed part of the building or structure, and where its removal or excavation constituted an offence at the time of the act.</p>
* Sentences		<p>If the person knows that he is in possession of stolen goods, he is liable to be punished for theft, i.e. dishonest appropriation.</p> <p>The maximum sentence for handling is 14 years' imprisonment.</p>
* Prescription - Time limit		<p>No time limit.</p> <p>It is simply admitted in case law that late proceedings can be</p>

⁷⁴ However, it should be noted that there are exceptions to this general rule. For certain offences, there is a specific time limit for bringing a prosecution, which is often linked to compliance with international conventions signed by the United Kingdom.

<i>UNITED KINGDOM – ROYAUME UNI</i>	
and conditions	considered abusive abuse of process by the court.
Trafficking in cultural property	
* Sentences	Dealing in Cultural Objects (Offences) Act 2003 (section 1) Up to a maximum of 7 years' imprisonment and/or a fine of up to £5,000
* Prescription - Time limit and conditions	No time limit except for summary offences: 6 months (Magistrates' Courts Act ⁷⁵ 1980, Section 127). Apart from this exception, it is simply admitted in case law that late proceedings can be considered abuse of process by the court.

⁷⁵ This Act is not applicable in Scotland or Northern Ireland (Section 155).

<i>SLOVAKIA – SLOVAQUIE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	1/ Covered by common law 2/ The CC establishes the offence of ‘abuse of property’ (the act of damaging an important cultural interest by destroying it or rendering it unusable, and the act of damaging or destroying cultural heritage by undertaking archaeological research or excavations without permission).	
* Specific mention of cultural property	Yes	
* Sentences	1/ 6 months’ to 15 years’ imprisonment 2/ 2 to 10 years’ imprisonment	
* Prescription - Time limit and conditions		
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Corresponds to concealment	
* Sentences	6 months’ to 5 years’ imprisonment	
* Prescription - Time limit and conditions		
Trafficking in cultural property		

Common law offences

<i>SLOVAKIA – SLOVAQUIE</i>	
* Sentences	No
* Prescription - Time limit and conditions	No

<i>SLOVENIA – SLOVENIE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code		
* Specific mention of cultural property		
* Sentences		
* Prescription - Time limit and conditions		
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code		
* Sentences		
* Prescription - Time limit and conditions		
Trafficking in cultural property		
* Sentences		
* Prescription - Time limit and conditions		

<i>SPAIN – ESPAGNE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Art. 237 CC Theft is an offence against property. It consists of taking movable property using force, violence or intimidation.	Art. 242 CC Violence against a person or with a weapon Art. 241 CC Theft with aggravating circumstances
* Specific mention of cultural property	No	No
* Sentences	Art. 240 CC 1 year to 3 years' imprisonment	Theft with violence: 2 to 5 years' imprisonment Armed robbery: 7 years
* Prescription - Time limit and conditions	Art. 131 CC: 5 years 10 years for offences punished with between 10 and 15 years, 5 years for offences punished with between 3 and 5 years, 3 years for offences punished with lesser sentences. The period is counted from the date of commission of the offence.	Art. 131 CC: 5 years 10 years for offences punished with between 10 and 15 years, 5 years for offences punished with between 3 and 5 years, 3 years for offences punished with lesser sentences. The period is counted from the date of commission of the offence.
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Art. 298 CC Any person who, with the intention of obtaining a financial gain and being aware of the commission of an offence against property or of a socio-economic order, has not participated either as a principal offender or an accomplice, helps a person appropriate the object, or receives, acquires or conceals the object.	Art. 299 Trafficking or use of a commercial or industrial establishment or premises
* Sentences	6 months' to 2 years' imprisonment	2 years' imprisonment 1 to 2 years'

<i>SPAIN – ESPAGNE</i>		
		imprisonment, professional disqualification, temporary or permanent closure of the establishment
* Prescription - Time limit and conditions	1 year to 3 years Counted from the date of commission of the offence	1 year to 3 years Counted from the date of commission of the offence
Trafficking in cultural property		
* Sentences	No	
* Prescription - Time limit and conditions	No	

<i>SWEDEN – SUEDE</i>		
Theft		
	Petty theft	Aggravated theft
* Definition - Art. of the Criminal Code	Chapter 8(1) CC (SFS 1962: 700)	
* Specific mention of cultural property	No	
* Sentences	1/ Petty theft: up to 2 years' imprisonment 2/ Theft of lesser importance: up to 6 months' imprisonment	In the case of aggravated theft, 6 months' to 6 years' imprisonment
* Prescription - Time limit and conditions	1/ 5 years 2/ 2 years	10 years
Handling		
	Petty handling	Aggravated handling
* Definition - Art. of the Criminal Code	Chapter 9(6) and (7) CC	
* Sentences	No	
* Prescription - Time limit and conditions	Fine or up to 6 years' imprisonment	
Trafficking in cultural property		
* Sentences	Identical to those applicable to cases of theft	
* Prescription - Time limit and conditions	1 to 10 years depending on the nature of the crime	

Annex 3

Overview of obstacles reported in the study

The information contained in the following tables was drawn from interviews and exchanges carried out as part of this study as well as from earlier reports by various bodies and from documents produced by the Commission.

In reports and studies preceding this report, target groups in different Member States reported extremely varied obstacles.

As an introductory point, it is interesting to note that the obstacles cited in questionnaires and interviews were sometimes national obstacles, sometimes Community obstacles and sometimes international obstacles. Often, these obstacles are exacerbated at the supranational level. This is the case, for example, of problems linked to administrative cooperation. Member States decrying piecemeal cooperation or reporting a lack of coordination among relevant services in their own countries were also the first to stress difficulties associated with cooperation.

Outside of government services, the largest number of comments nearly always stemmed from the question of an object's provenance and its identification. Efforts might therefore need to be concentrated on the tools required to overcome this weakness. Lack of expertise on the part of agents, the absence of centralized information held in databases and the diverse nature of inventories were all recurrent themes.

In terms of the removal of cultural objects, the lack of import controls and the growth of online sales were the main difficulties reported by participants.

Lastly, the most common problems when an object was seized or recovered were the flow and quality of information, the cost for both police and customs agencies of restitution measures and disparities in the period of limitation.

Obstacles faced by police forces / customs

Type	Obstacle	Source
Provenance / identification of cultural property		
Legislative obstacles	<p>Obstacle 1: Lack of knowledge of foreign systems.</p> <p>Obstacle 2: No compatible legislation among countries involved in the fight against trafficking in cultural property.</p> <p>Obstacle 3: Absence of harmonized criminal law among countries.</p> <p>Obstacle 4: Variations in anti-trafficking norms.</p> <p>Obstacle 5: Norms are not strict enough.</p> <p>Obstacle 6: Limitation period is very short.</p> <p>Obstacle 7: Lack of specialized legislation at the European Union level.</p> <p>Obstacle 8: Difficulties raised in the implementation of international conventions in the context of national law.</p> <p>Obstacle 9: Relative lack of clarity regarding the complementary nature of the main principles of existing international conventions.</p>	<p>1) Slovakia, Estonia</p> <p>2) Portugal</p> <p>3) Portugal, Netherlands</p> <p>4) Spain</p> <p>5) Spain</p> <p>6) Spain</p> <p>7) Luxembourg, Greece</p> <p>8) UNODC (doc. CCPCJ/EG.1/2009/2, para. 41-42)</p> <p>9) UNODC (doc. CCPCJ/EG.1/2009/2, para. 47-48)</p>
Operational obstacles	<p>Obstacle 1: Lack of legal grounds for action taken by customs.</p> <p>Obstacle 2: Coordination and distribution of spheres of action among national authorities.</p> <p>Obstacle 3: Export permit issuing procedures (option to export objects permanently, “weakness” of staff issuing permits, permits issued without strict controls or without the object being seen).</p> <p>Obstacle 4: Identification of objects / Agent’s lack of expertise (difficulties in assessing value or authenticating the provenance of an object).</p>	<p>1) Bulgaria</p> <p>2) Bulgaria, Latvia, Estonia, Spain, Luxembourg</p> <p>3) Romania</p> <p>4) Romania, Slovenia, Latvia, Estonia, Spain, Greece</p>

Type	Obstacle	Source
	<p>Obstacle 5: Dearth of documentation relating to privately-held objects.</p> <p>Obstacle 6: Lack of resources (financial, human).</p> <p>Obstacle 7: No engagement on the part of customs discussions on trafficking.</p> <p>Obstacle 8: Customs is unaware of cultural property protected under foreign legal systems.</p> <p>Obstacle 9: Inadequate control of online sales in cultural property and of art market operators.</p> <p>Obstacle 10: Merchants failing to meet their obligations of keeping up to date records and the lack of applicable penalties.</p> <p>Obstacle 11: Existence of powerful economic interests that prevent action to prevent certain forms of attacks on cultural property.</p> <p>Obstacle 12: Police lack of awareness of the issue.</p> <p>Obstacle 13: Ineffectiveness of existing tools, such as “Red Lists”.</p> <p>Obstacle 14: Role of transit States.</p> <p>Obstacle 15: Quality of information shared (problem found at all stages),</p>	<p>5) Slovenia</p> <p>6) (repeated across national reports), 2006 Report (Nordic countries)⁷⁶</p> <p>7) Latvia, Lithuania</p> <p>8) Spain</p> <p>9) Portugal</p> <p>10) Spain</p> <p>11) Spain</p> <p>12) Luxembourg</p> <p>13) Austria</p> <p>14) UNODC (doc. CCPCJ/EG.1/2009/2, para. 43)</p> <p>15) UNODC (doc. E/2010/30 – E/CN.15/2010/20, para. 40)</p>
Technical obstacles	<p>Obstacle 1: Maintenance of paper databases.</p> <p>Obstacle 2: Technical difficulties in database management.</p> <p>Obstacle 3: Absence of a database in certain Member States.</p> <p>Obstacle 4: No correctly implemented cultural property inventory systems according to an object’s country of origin.</p>	<p>1) Latvia</p> <p>2) Lithuania</p> <p>3) Luxembourg</p> <p>4) Portugal, Netherlands</p> <p>5) Portugal</p>

⁷⁶ The citation “2006 Report (Nordic countries)” refers to: *Cultural Heritage Crime – the Nordic Dimension*, Report 2006:2, The Swedish National Council for Crime Prevention, Information and Publication, written by Lars Korsell, Göran Hedlund, Sofia Elwér, Daniel Vesterhav and Anita Heber.

Obstacles faced by police forces / customs

Type	Obstacle	Source
	<p>Obstacle 5: Existing cultural property databases in different countries are not compatible. Information held in international databases is inadequate (the report did not provide specific details).</p> <p>Obstacle 6: Increasingly international nature of online sales.</p> <p>Obstacle 7: Criticism of the INTERPOL database in which only photographed objects are recorded.</p> <p>Obstacle 8: No trafficking case database and absence of analysis thereon, hampering substantive discussion and prevention efforts.</p> <p>Obstacle 9: Little (or no) access to databases managed by national police forces.</p>	<p>6) Portugal</p> <p>7) Netherlands</p> <p>8) 2006 Report (Nordic countries) (p. 170)</p> <p>9) 2006 Report (Nordic countries) (p. 170)</p>
Movement of cultural property		
Legislative obstacles	<p>Obstacle 1: No control requirements when object is imported.</p> <p>Obstacle 2: No import rules, priority given to export of cultural objects.</p> <p>Obstacle 3: The free flow of goods between Member States poses a problem for prevention as a customs declaration is not required. This limits opportunities to detect trafficking in cultural property.</p> <p>Obstacle 4: Directive 93/7/EEC does not identify customs as having jurisdiction.</p> <p>Obstacle 5: Constraints (or lack thereof) on customs offices.</p>	<p>1) Estonia</p> <p>2) Portugal</p> <p>3) United Kingdom</p> <p>4) Luxembourg</p> <p>5) 2000 Report (p. 9-10)⁷⁷</p>
Operational obstacles	<p>Obstacle 1: Difficulty in carrying out physical checks on export as the Schengen Agreement has removed intra-EU “barriers”. (Cyprus highlighted the particular problems posed by the buffer zone, also known as the “Green Line”, where the movement of cultural property is not closely monitored at crossings)</p> <p>Obstacle 2: Fight against unlawful archaeological excavations (including monitoring the use of metal detectors) [no details were provided in the answers].</p>	<p>1) Romania, Cyprus, Greece, Hungary</p> <p>2) Slovakia, Slovenia, Estonia</p> <p>3) Portugal, Belgium,</p>

⁷⁷ The citation “2000 Report” refers to the *Report from the Commission to the Council, the European Parliament and the Economic and Social Committee on the implementation of Council Regulation (EEC) No. 3911/92 on the export of cultural goods and Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State*, Brussels, 25 May 2000, COM(2000) 325 final.

Type	Obstacle	Source
	<p>Obstacle 3: No checks on imported cultural property.</p> <p>Obstacle 4: Difficulty created by diversity of control mechanisms.</p> <p>Obstacle 5: British legislation from 2003 does not do enough to enable effective customs investigations of cases of cultural property trafficking. Import and export of cultural property are not prohibited or restricted. Under the 1979 Customs and Excise Management Act customs officers do not have seizure powers.</p> <p>Obstacle 6: Lack of communication between the police force, the Ministry of Culture and customs.</p> <p>Obstacle 7: Export certificates serve as an alibi because they control only legitimate shipments.</p> <p>Obstacle 8: Inadequate lines of communication among the administrative authorities of various countries.</p> <p>Obstacle 9: Where good relations do not already exist, cooperation among police forces of various countries is difficult (the report did not provide any details).</p> <p>Obstacle 10: Export permits issued when an object is held in a Member State other than its State of origin.</p> <p>Obstacle 11: Using criminal law to combat trafficking is problematic, even at EU level, because of disparities in national legislation and the lack of interoperability of stolen cultural property databases.</p>	<p>Luxembourg</p> <p>4) Italy, Denmark</p> <p>5) United Kingdom</p> <p>6) Luxembourg</p> <p>7) Luxembourg</p> <p>8) Portugal, UNODC (doc. E/2010/30 – E/CN.15/2010/20, para. 2)</p> <p>9) Portugal</p> <p>10) 2000 Report (p. 8)</p> <p>11) 2009 Note⁷⁸</p>
Technical obstacles	Obstacle 1: Circulation of information.	1) Romania
Recovery of objects in illicit situations		
Legislative obstacles	Obstacle 1: Limitation period (an overly short period of 10 years in Slovenia and Spain, inconsistency between criminal law and laws on cultural property).	1) Slovenia, Spain, Portugal, Greece, Austria

⁷⁸ The citation “2009 Note” refers to the Information Note on the international meeting held in Rome on the fight against trafficking in cultural property, 2009, Directorate-General of Customs and Excise, France.

Obstacles faced by police forces / customs

Type	Obstacle	Source
	<p>Obstacle 2: There is no legislation or regulation empowering customs agents to check import and export permits.</p> <p>Obstacle 3: Complexities of restitution procedures.</p> <p>Obstacle 4: Less than optimum use of statutory law or the provisions of international instruments such as the Convention against Transnational Organized Crime.</p> <p>Obstacle 5: Handling of stolen property seems to be a “dead letter”.</p> <p>Obstacle 6: Some damage to the cultural heritage punished by administrative penalties alone.</p> <p>Obstacle 7: No solid legal basis for carrying out effective investigations.</p>	<p>2) Sweden</p> <p>3) Spain, 2000 Report (p. 8)</p> <p>4) Netherlands</p> <p>5) Austria</p> <p>6) Austria</p> <p>7) United Kingdom</p>
Operational obstacles	<p>Obstacle 1: Fragmentation of powers and duties for individuals in charge of heritage protection. Absence of a specialized agency.</p> <p>Obstacle 2: Lack of resources.</p> <p>Obstacle 3: No cooperation with non-EU neighbours.</p> <p>Obstacle 4: Information/intelligence not shared among Member States.</p> <p>Obstacle 5: Non-prosecution (perhaps intentional owing to procedural complexity).</p> <p>Obstacle 6: Regional specificities may hinder effective cooperation.</p> <p>Obstacle 7: Cooperation with Europol and INTERPOL is limited.</p>	<p>1) Romania</p> <p>2) Hungary, Latvia, Greece, Austria</p> <p>3) Lithuania (with regard to Russian Federation)</p> <p>4) United Kingdom</p> <p>5) Austria</p> <p>6) UNODC (doc. CCPCJ/EG.1/2009/2, para. 76 seq.)</p> <p>7) 2011 Report (p. 7)79</p>

⁷⁹ The citation “2011 Report” refers to the *Report from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the implementation of Council Regulation (EC) No. 116/2009 of 18 December 2008 on the export of cultural goods, 1 January 2000 – 31 December 2010*, Brussels, 27 June 2011, COM(2011) 382 final.

Type	Obstacle	Source
Technical obstacles	<p>Obstacle 1: Circulation of information.</p> <p>Obstacle 2: Language barriers prevent communication.</p>	<p>1) Romania</p> <p>2) Czech Republic</p>

Type	Obstacle	Source
Provenance / identification of the cultural goods		
Legislative obstacles	<p>Obstacle 1: Definition of national treasure in each country. (Differences in national legislation mean that objects declared at the national level as national treasures may not be included in the list of categories of goods under the Regulation). State sovereignty in setting definitions.</p> <p>Obstacle 2: Different procedures followed between the discovery of an archaeological object and its inclusion in an inventory (not well developed; the idea being that since each State acts differently, it is harder to know which objects are protected and which are not).</p> <p>Obstacle 3: Identification of cultural goods, difficulty assessing value of an object or the authenticity of its provenance.</p> <p>Obstacle 4: Diverse definitions of “cultural goods” in national legislation and the priority given by each country in applying its legislation.</p> <p>Obstacle 5: Diversity of legislation regarding exchange of information in cases of illegal export of cultural goods in different countries is a serious problem for Turkey. When cultural goods of Turkish origin is in a foreign museum or put up for sale in a salesroom, Turkey faces considerable difficulties in obtaining information on the seller of the object, its previous owner and the purchase and sale documents.</p> <p>Obstacle 6: Unclear interpretation of Finnish law with regard to the export of certain types of cultural goods and the application thereof with regard to cultural goods from the early twentieth century.</p> <p>Obstacle 7: Differing legal frameworks.</p>	<ol style="list-style-type: none"> 1) Bulgaria, Austria, 1998 Report (p. 15)⁸⁰ 2) Bulgaria 3) Spain, Netherlands, Austria 4) Spain, Working Paper Scottish Law Commission⁸¹ 5) Turkey 6) Finland 7) Cyprus 8) Working Paper Scottish Law Commission 9) Working Paper Scottish Law Commission 10) 1998 Report (p. 14)

⁸⁰ The citation “1998 Report” refers to: European Parliament, Directorate-General for Research, Working Paper, The Free Movement of Cultural Goods in the European Union, New Issues in Community Law, *Education and Culture Series*, EDUC 102 EN, 2-1998, PE 167-82.

⁸¹ The citation “Working Paper Scottish Law Commission” refers to: *Discussion Paper on Prescription and Title to Moveable Property*, Discussion paper No. 144, Edinburgh: The Stationery Office, December 2010.

	<p>Obstacle 8: Negative effect of certain overly strict provisions which are in the end counterproductive to the fight against trafficking.</p> <p>Obstacle 9: Focus on private law.</p> <p>Obstacle 10: Holistic definition of the cultural heritage in certain Member States (the Report presents the case of Spain).</p>	
Operational obstacles	<p>Obstacle 1: Identifying objects (qualitative descriptions) / Lack of expertise on the part of agents.</p> <p>Obstacle 2: Insufficient documentation of cultural goods held privately and of religious property.</p> <p>Obstacle 3: Objects lack supporting documentation.</p> <p>Obstacle 4: Difficult to prove stolen object database has been consulted prior to purchase.</p> <p>Obstacle 5: Difficult to prove State ownership of uninventoried archaeological objects or of illicitly excavated objects, even in the case of cuneiform tablets, for example. Existence of hundreds of undiscovered archaeological sites.</p> <p>Obstacle 6: Difficult to inventory the heritage in its entirety owing to the reticence of individuals or institutions.</p> <p>Obstacle 7: Problem identifying and ascertaining the provenance of archaeological objects (exacerbated in the case of objects coming from the northern area).</p> <p>Obstacle 8: General public sometimes lacking awareness or information.</p> <p>Obstacle 9: Hiding of cultural goods and production of counterfeits.</p>	<ol style="list-style-type: none"> 1) Romania, Slovenia, Latvia, Lithuania, Cyprus, Netherlands 2) Slovenia, Lithuania, 2001 Report (p. 5)⁸² 3) Hungary 4) Open Method of Coordination (OMC) Group 5) Iraq, Greece 6) Spain 7) Cyprus 8) Spain, Cyprus, Netherlands, Greece 9) Austria, Borghese⁸³ 10) 2001 Report (p. 5) 11) 2004/2007 Reports⁸⁴

⁸² The citation “2001 Report” refers to the European Parliament document, Session document, *Report on the Commission report to the Council, the European Parliament and the Economic and Social Committee on the implementation of Council Regulation (EEC) No 3911/92 on the export of cultural goods and Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State* (COM(2000) 325 – C5 0509/2000 – 2000/2246(COS)), Committee on Culture, Youth, Education, the Media and Sport, FINAL A5-0122/2001.

⁸³ The citation “Borghese” refers to the study prepared by the Borghese law firm for this study.

	<p>Obstacle 10: Incomplete, or even non-existent lists of cultural goods held publicly or privately in institutions or organizations.</p> <p>Obstacle 11: Member States have difficulty compiling a general inventory of national treasures. The task is enormous for States rich in cultural goods and can be accomplished only in the long term.</p>	
Technical obstacles	<p>Obstacle 1: Absence of photographs of objects held in museum collections.</p> <p>Obstacle 2: Costs associated with databases and the use of new ICTs</p>	<p>1) Cyprus, 2006 Report (Nordic countries) (p. 184)</p> <p>2) UNODC (doc. CCPCJ/EG.1/2009/2, para. 65)</p>
Movement of cultural goods		
Legislative obstacles	<p>Obstacle 1: Metal detectors are not prohibited. The use, but not the purchase, of metal detectors is prohibited.</p> <p>Obstacle 2: Instruments are difficult to apply.</p> <p>Obstacle 3: Protection of cultural goods tends to occur at national rather than Community level.</p> <p>Obstacle 4: The Directive aims to prevent, rather than combat, trafficking.</p>	<p>1) Czech Republic, Germany</p> <p>2) Estonia</p> <p>3) 2001 Report (p. 10)</p> <p>4) 2005 Report (p. 3)⁸⁵, 2009 Report (p. 5, 8)⁸⁶</p>

⁸⁴ The citations “2004/2007 Reports”, “2004 Report” and “2007 Report” refer to: Call for Tender MARKET/2003/05/C, Analysis of structures and mechanisms for disseminating the data which authorities require to ensure that the directive on cultural property is being enforced, Final Report and Annexes, Information & Communication Partners, 28 December 2004, for the citation “2004 Report”, and Contract No. 30-CE-0102617/00-49, Analysis of structures and mechanisms for disseminating the data which authorities require to ensure that the directive on cultural property is being enforced, Extension to the twelve 2004 new Member States, Final Report and Annexes, written by Marlène Cattelain and Jean-Claude Deheneffe, 31 October 2007, for the citation “2007 Report”.

⁸⁵ The citation “2005 Report” refers to the *Report from the Commission to the Council, the European Parliament and the European Economic and Social Committee – Second Report on the application of Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State*, Brussels, 21 December 2005, COM(2005) 675 final.

⁸⁶ The citation “2009 Report” refers to the *Report from the Commission to the Council, the European Parliament and the European Economic and Social Committee, Third report on the application of Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State*, Brussels, 30 July 2009, COM(2009) 408 final.

Operational obstacles	<p>Obstacle 1: Combating illicit archaeological excavations.</p> <p>Obstacle 2: Vulnerability of church property.</p> <p>Obstacle 3: Problem of trafficking inside a State.</p> <p>Obstacle 4: Exponential growth of trafficking through the Internet.</p> <p>Obstacle 5: Long period of time between an object's disappearance/theft/excavation and its reappearance.</p> <p>Obstacle 6: Requirement to make the granting of licences conditional on a preliminary application to the State of origin.</p>	<p>1) Slovakia, Slovenia, UNODC (doc. CCPCJ/EG.1/2009/2 para. 45-46 and doc. E/2010/30 – E/CN.15/2010/20, para. 37)</p> <p>2) Latvia</p> <p>3) UNODC (doc. CCPCJ/EG.1/2009/2, para. 46)</p> <p>4) UNODC (doc. E/2010/30 – E/CN.15/2010/20, para. 36)</p> <p>5) 2005 Report (p. 7)</p> <p>6) 2001 Report (p. 6, p. 14)</p>
Technical obstacles	<p>Obstacle 1: More difficult to trace works not listed in the Annexes to the Directive and the Regulation.</p> <p>Obstacle 2: Lack of security systems (owing to a lack of financial resources).</p> <p>Obstacle 3: Security systems put in place are ill-advised or ineffective (focus on alarms and night-time security when most thefts occur during the day).</p>	<p>1) 2009 Report (p. 6)</p> <p>2) 2006 Report (Nordic countries) (p. 170)</p> <p>3) 2006 Report (Nordic countries) (p. 185)</p>
Recovery of objects in illicit situations		
Legislative obstacles	<p>Obstacle 1: Limitation periods/ Instruments are not retroactive.</p> <p>Obstacle 2: Burden of proof.</p> <p>Obstacle 3: Different definitions of good faith.</p> <p>Obstacle 4: Directive rarely applied in the case of restitution.</p>	<p>1) Slovenia, Spain, Portugal, Cyprus, Working Paper Scottish Law Commission (pt. 10.7)</p> <p>2) Hungary</p> <p>3) Cyprus, Austria, UNODC</p>

		(doc. CCPCJ/EG.1/2009/2, para. 25) 4) 2005 Report (p. 6-7), 2009 Report (p. 5)
Operational obstacles	<p>Obstacle 1: Diversity of procedures followed in the case of an object on sale suspected of being, or proven to be, the result of trafficking.</p> <p>Obstacle 2: Bureaucratic procedures in place for the restitution of cultural goods.</p> <p>Obstacle 3: Cooperation is difficult or lacking. Administrative cooperation is weak.</p> <p>Obstacle 4: Cost associated with returning cultural goods</p>	<p>1) OMC Group</p> <p>2) Portugal</p> <p>3) Cyprus, 2005 Report (p. 6,8), 2009 Report (p. 3,5)</p> <p>4) UNODC (doc. CCPCJ/EG.1/2009/2, para. 42), 2009 Report (p. 5)</p>
Technical obstacles	<p>Obstacle 1: Museum inventories are not accessible, hindering the identification of cultural goods.</p>	<p>1) Greece</p>

Type	Obstacle	Source
Provenance / identification of the cultural goods		
Legislative obstacles	<p>Obstacle 1: No specific rules to monitor online sales.</p> <p>Obstacle 2: Lack of external controls on the art market which operates on a self-regulatory basis.</p> <p>Obstacle 3: No common legal definition of artwork. Cultural goods is defined differently among States.</p> <p>Obstacle 4: Criticism of the concept of “territorial connection”.</p> <p>Obstacle 5: No legal definition of the concept of provenance.</p> <p>Obstacle 6: No clarity in norms with regard to the diligence required to demonstrate good faith.</p>	<p>1) Netherlands</p> <p>2) Netherlands</p> <p>3) 2009 Study (p. 11)⁸⁷</p> <p>4) 2009 Study (p. 17)</p> <p>5) Borghese</p> <p>6) Borghese</p>
Operational obstacles	<p>Obstacle 1: Monitoring of online sales hindered by a shortage of staff, heavy workloads, and a lack of cooperation with salesrooms.</p> <p>Obstacle 2: Temporary nature of many auction houses.</p> <p>Obstacle 3: Complete lack of obligations on art market stakeholders with regard to diligence or record-keeping to guarantee traceability.</p> <p>Obstacle 4: Provenance is falsified by the vendor.</p> <p>Obstacle 5: Actors are hesitant to be too “visible” (exacerbated desire for confidentiality).</p> <p>Obstacle 6: Inventories kept by museums or individuals are too varied or insufficient.</p> <p>Obstacle 7: Provenance of cultural goods is given differing degrees of importance by stakeholders (it is of greater importance to sellers than to</p>	<p>1) Cyprus, Greece (repeated across national reports)</p> <p>2) Austria</p> <p>3) Austria</p> <p>4) 2006 Report (Nordic countries) (p. 179)</p> <p>5) Borghese</p> <p>6) Borghese</p> <p>7) Borghese</p> <p>8) Borghese</p>

⁸⁷ The citation “2009 Study” refers to the Directorate-General for Internal Policies, Policy Department B, Structural and Cohesion Policies, Culture and Education, *The Mobility of Works of Art in Europe*, Note, IP/B/CULT/IC/2009-005 04/2009, PE 419.085.

Type	Obstacle	Source
	collectors), despite the current economic implications of the issue. Obstacle 8: Public institutions are not always the role models they should be.	
Technical obstacles	Obstacle 1: Traceability of cultural goods, identifying marks (may not be durable or visible over time, may be hard to see) Obstacle 2: Increase in the number of databases. Obstacle 3: Access to databases varies (no harmonization among databases consulted nor standardized means consultation). Obstacle 4: Delay in adding lost cultural goods to databases, or insufficient information added, which hinders the circulation of information. Obstacle 5: No “consultation certificate” given for the INTERPOL database (unlike the Art Loss Register).	1) 2004 Report, Cyprus 2) 2006 Report (Nordic countries) (p. 166) 3) Borghese 4) Borghese 5) Borghese
Movement of cultural goods		
Legislative obstacles	Obstacle 1: Current provisions may account for lack of mobilization on the part of the EU art market. Obstacle 2: Provisions regulating the sale of second-hand objects are not suited to online sales.	1) 2009 Study (p. 11) 2) 2006 Report (Nordic countries) (p. 180)
Operational obstacles	Obstacle 1: Poor communication among art market stakeholders and heritage protection authorities. Obstacle 2: Cultural goods sold online lacks supporting documentation (seller, provenance, actual location of the object). Obstacle 3: Difficult to ascertain who is liable in the case of online sales (site, seller?) Obstacle 4: Some dealers check the provenance of an object in relation to the likelihood of being caught rather than seeking to determine its true origin. Obstacle 5: In most Member States, no standardized procedure exists to	1) Romania 2) Slovenia, Greece 3) Hungary 4) 2006 Report (Nordic countries) (p. 181) 5) OMC Group (Online sales) 6) OMC Group (Online sales)

Type	Obstacle	Source
	identify cultural goods trafficked online. Obstacle 6: Most Member States do not have an agency or body devoted to monitoring online trafficking.	
Technical obstacles		
Recovery of objects in illicit situations		
Legislative obstacles	Obstacle 1: Multiple jurisdictions involved when online sale involves individuals from different States.	1) Hungary
Operational obstacles	Obstacle 1: Preservation? measures difficult to secure. Obstacle 2: Length of proceedings.	1) Greece 2) Greece
Technical obstacles		

Obstacles for authorities

Type	Obstacles	Source
Provenance / identification of the cultural goods		
Legislative obstacles	<p>Obstacle 1: Definition of national treasure in each country. (Differences in national legislation mean that objects declared at the national level as national treasures may not be included in the list of categories of goods under the Regulation). State sovereignty in setting definitions.</p> <p>Obstacle 2: Different procedures followed between the discovery of an archaeological object and its inclusion in an inventory (was not well developed; the idea being that since each State acts differently, it is harder to know which objects are protected and which are not).</p> <p>Obstacle 3: Uneven implementation of EU texts.</p> <p>Obstacle 4: No general or specialized definition of due diligence.</p> <p>Obstacle 5: No specific legislation regarding online sales.</p> <p>Obstacle 6: Use of expressions which differ from the spirit of the Directive when implementing texts into national law (in particular the replacement of “due diligence” by “good faith” diligence” as a precondition for compensating the possessor).</p>	<p>1) Bulgaria, Spain</p> <p>2) Bulgaria</p> <p>3) Spain, Belgium</p> <p>4) Finland</p> <p>5) Finland</p> <p>6) 2000 Report (p. 13)</p>
Operational obstacles	<p>Obstacle 1: Lack of knowledge of foreign systems. Existing tools not kept up to date.</p> <p>Obstacle 2: Degree of digitization of museum and private inventories.</p> <p>Obstacle 3: Lack of qualified experts in “foreign art”.</p> <p>Obstacle 4: Absence of lobbying action at EU level.</p> <p>Obstacle 5: Difficulty making a complete inventory of heritage owing to the reticence of individuals or institutions.</p> <p>Obstacle 6: Difficulty protecting undiscovered or remote archaeological sites.</p> <p>Obstacle 7: Owners or possessors of cultural goods do not respond to holding or protection measures</p>	<p>1) Bulgaria, Belgium</p> <p>2) Bulgaria</p> <p>3) Slovakia, Greece</p> <p>4) Slovakia</p> <p>5) Spain</p> <p>6) Spain</p> <p>7) Spain</p> <p>8) United Kingdom</p> <p>9) United Kingdom, Turkey</p> <p>10) Turkey</p> <p>11) Portugal</p>

Type	Obstacles	Source
	<p>Obstacle 8: Protecting cultural goods is not a priority.</p> <p>Obstacle 9: Difficult to prove origin and State ownership of illegally excavated cultural goods.</p> <p>Obstacle 10: In the case of stolen cultural goods, it is difficult to obtain information on the person selling the property online or in a salesroom, on the previous owner of the object or the purchase and sale documents.</p> <p>Obstacle 11: Databases are not compatible. The amount of information they contain is very disparate.</p> <p>Obstacle 12: Difficult to identify stolen cultural goods unless it has been included in the INTERPOL stolen cultural goods database.</p> <p>Obstacle 13: Difficult to identify cultural goods from other countries.</p>	<p>12) Turkey</p> <p>13) Denmark</p>
Technical obstacles	<p>Obstacle 1: In cases of theft or illicit export, insufficient information is circulated.</p> <p>Obstacle 2: Existing databases are not interconnected and fall short of what is needed. Difficult to access foreign databases.</p> <p>Obstacle 3: No centralized national register.</p>	<p>1) Poland, Austria, 2000 Report (p. 15)</p> <p>2) Romania, Czech Republic, Estonia</p> <p>3) Slovenia</p>
Movement of cultural goods		
Legislative obstacles	<p>Obstacle 1: Difficult to ascertain liable party in online sales (site, seller?).</p> <p>Obstacle 2: Thresholds set by the Regulation (age, value).</p> <p>Obstacle 3: Certain provisions of the Directive have not been implemented into national law (obligation to provide information).</p> <p>Obstacle 4: Complexity of legislation on removal or export of cultural goods.</p>	<p>1) Hungary</p> <p>2) 2000 Report (p. 16), 2009 Report (p. 6), 2011 Report (p. 7)</p> <p>3) 2000 Report (p. 13)</p> <p>4) 2006 Report (Nordic countries) (p. 178)</p>
Operation	<p>Obstacle 1: Time-lag between identification of the crime and transmission of</p>	<p>1) Poland, Sweden</p>

Obstacles for authorities

Type	Obstacles	Source
al obstacles	<p>information to all authorities/stakeholders concerned.</p> <p>Obstacle 2: Lack of knowledge of foreign systems. Existing tools not kept up to date.</p> <p>Obstacle 3: Circulation of information.</p> <p>Obstacle 4: Poor communication among art market stakeholders and heritage protection authorities.</p> <p>Obstacle 5: Cultural goods, whether sold online or at auction, lacks supporting documentation (seller, provenance, actual location of the object).</p> <p>Obstacle 6: Discrepancy between priorities and interests (certain actors may benefit from trafficking).</p> <p>Obstacle 7: In some cases the administrative collaboration provided for in EU instruments is carried out by the State in name only. In other cases, cooperation is lacking altogether.</p> <p>Obstacle 8: Cooperation among relevant customs and culture authorities has not been implemented or formalized.</p> <p>Obstacle 9: Administrative cooperation is weak.</p> <p>Obstacle 10: Guidelines adopted in 2003 are difficult to keep up to date.</p> <p>Obstacle 11: Diversity of documents for the transfer of cultural goods from one Member State to another.</p> <p>Obstacle 12: Most Member States do not require an import permit for cultural goods.</p>	<p>2) Poland, 2006 Report (Nordic countries) (p. 171)</p> <p>3) Romania, 2001 Report (p. 5)</p> <p>4) Romania</p> <p>7) Slovenia, Turkey, Hungary</p> <p>8) Hungary</p> <p>9) Italy</p> <p>10) 2000 Report (p. 9, 15)</p> <p>11) 2005 Report (p. 3), 2009 Report (p. 3,5), 2009 Study (p. 17)</p> <p>12) 2011 Report (p. 7), 2004/2007 Reports, 2004/2007 Reports</p>
Technical obstacles	<p>Obstacle 1: Dearth of effective information technology.</p> <p>Obstacle 2: Lack of a database recording the issue of export permits.</p> <p>Obstacle 3: No mutual awareness of standard documents accompanying cultural goods and national export permits.</p> <p>Obstacle 4: Efforts were made to update contact information of national</p>	<p>1) Poland</p> <p>2) Czech Republic</p> <p>3) 2004/2007 Reports</p> <p>4) 2011 Report (p. 7)</p>

Type	Obstacles	Source
	<p>authorities through an online tool within CIRCA. This has not proved effective and it remains difficult to keep information up to date.</p> <p>Obstacle 5: Inability to request an export permit electronically.</p>	<p>5) 2011 Report (p. 7)</p>
Recovery of objects in illicit situations		
Legislative obstacles	<p>Obstacle 1: Multiple jurisdictions involved when online sale involves individuals from different States.</p> <p>Obstacle 2: Countries of origin view limitation periods as a major obstacle.</p>	<p>1) Hungary</p> <p>2) Turkey</p>
Operational obstacles	<p>Obstacle 1: Circulation of information.</p> <p>Obstacle 2: Cases are often settled because of political or economic factors rather than on the basis of the instruments.</p>	<p>1) Romania</p> <p>2) Hungary, Latvia, Lithuania</p>
Technical obstacles	<p>Obstacle 1: No standardized procedure for online sales.</p>	<p>1) Finland</p>

Difficulties faced by museums

Type	Obstacles	Source
Provenance / identification of the cultural goods		
Legislative obstacles	<p>Obstacle 1: No integration of the principles of the Code of Ethics of the International Council of Museums (ICOM).</p> <p>Obstacle 2: Few Member States have provided for legal or administrative sanctions for cases where institutions acquire an object of dubious provenance.</p>	<p>1) OMC Group</p> <p>2) OMC Group</p>
Operational obstacles	<p>Obstacle 1: No direct online access to databases.</p> <p>Obstacle 2: No public control of acquisitions made by museums, archives or libraries in many Member States.</p> <p>Obstacle 3: Time-lag or irregularities in verification.</p>	<p>1) Bulgaria</p> <p>2) OMC Group</p> <p>3) 2006 Report (Nordic countries) (p. 184)</p>
Technical obstacles	<p>Obstacle 1: Traceability of cultural goods, identifying marks (may not be durable or visible over time, may be hard to see).</p> <p>Obstacle 2: Identification of cultural goods moved during the Second World War.</p> <p>Obstacle 3: Inventories are poorly designed (organized by lot or by title only of printed work, lacking physical documents).</p>	<p>1) 2004 Report</p> <p>2) Austria</p> <p>3) 2006 Report (Nordic countries) (p. 182)</p>
Movement of cultural goods		
Legislative obstacles		
Operational obstacles	<p>Obstacle 1: Difficult to ascertain the precise location and time of theft of cultural goods.</p> <p>Obstacle 2: Cultural goods coming from private and public collections has different information available.</p> <p>Obstacle 3: No established procedures in place in the case of theft from an institution.</p>	<p>1) Romania</p> <p>2) Slovenia</p> <p>3) 2006 Report (Nordic countries) (p. 184)</p>

Type	Obstacles	Source
Technical obstacles	<p>Obstacle 1: Security standards in museums must be improved and more resources made available to them.</p> <p>Obstacle 2: Recruiting and managing staff to work with cultural goods.</p>	<p>1) Bulgaria</p> <p>2) 2006 Report (Nordic countries) (p. 170)</p>
Recovery of objects in illicit situations		
Legislative obstacles		
Operational obstacles	Obstacle 1: Inappropriate use of the media.	1) 2006 Report (Nordic countries) (p. 183)
Technical obstacles		

Type	Obstacle	Source
Provenance / identification of cultural goods		
Legislative obstacles		
Operational obstacles	<p>Obstacle 1: Diversity of inventories kept by private owners.</p> <p>Obstacle 2: Inventories maintained by private owners are not kept up to date.</p> <p>Obstacle 3: Difficult to take action after theft of cultural goods (possibility for greater effectiveness in terms of prevention).</p>	<p>1) UEHHA Report⁸⁸</p> <p>2) UEHHA Report</p> <p>3) UEHHA Report</p>
Technical obstacles	Obstacle 1: Restrictions on the installation of shutters on listed heritage properties.	1) UEHHA Report

⁸⁸ The citation “UEHHA Report” refers to the report submitted by the European Historic Houses Associations for this study.

Obstacles faced by private owners

Type	Obstacle	Source
Movement of cultural goods		
Legislative obstacles		
Operational obstacles	<p>Obstacle 1: Risk of theft.</p> <p>Obstacle 2: Opening up of borders.</p> <p>Obstacle 3: Communication difficulties between owner and security forces at time of theft (local authorities deal with theft, whereas the ramifications are international).</p>	<p>1) UEHHA Report</p> <p>2) UEHHA Report</p> <p>3) UEHHA Report</p>
Technical obstacles		
Recovery of objects in illicit situations		
Legislative obstacles		
Operational obstacles		
Technical obstacles		

Annex 4

Recommendations made during the study, by target group

The information contained in the following tables was drawn from interviews and exchanges carried out as part of this study, as well as from earlier reports by various bodies, and from documents produced by the Commission.

Several common trends appear in the different types of recommendations, mentioned as follows according to target group.

First, there appears to be a need to create a centralized database at the European level that would bring together several national and international databases of cultural goods (inventories, national legislation, stolen cultural goods, national treasures, etc.) and provide numerous pieces of information and tools.

Secondly, there appears to be a need to set up a system for cooperation between the different administrations and institutions involved in preventing, and combating, trafficking in cultural goods at the national and international levels.

Further, it is necessary to harmonize national legislation on the protection of cultural goods at the European level in order to promote cooperation and processes for returning stolen goods.

It also appears necessary to reinforce controls on the circulation of cultural goods by increasing the role of customs authorities.

Finally, stakeholders of the art market should be further encouraged to respect the rules of due diligence and to supervise the online sale of cultural goods.

Recommendations concerning police forces / customs

Type	Recommendations	Source
Provenance/identification of cultural goods		
Legislative recommendations	<p>Recommendation 1: Restrict authorizations for the possession of metal detectors</p> <p>Recommendation 2: Revise the European Union internal standard for the export of cultural goods to countries outside the EU</p> <p>Recommendation 3: Emphasize the importance of the import certificate as a means of control and compliance with the export certificate issued by the country of origin</p> <p>Recommendation 4: Introduce a “certificate of recognition” in collaboration with museums, similar to the registration certificate for all vehicles</p> <p>Recommendation 5: Ratify the 1970 UNESCO Convention</p>	<p>1) Greece</p> <p>2) Spain</p> <p>3) Italy, Croatia, OMC Report on due diligence⁸⁹</p> <p>4) Germany and Austria</p> <p>5) Austria</p>
Operational recommendations	<p>Recommendation 1: Create a working group aimed at exchange and training</p>	<p>1) Bulgaria, Romania, Estonia</p>
Technical recommendations	<p>Recommendation 1: Reorganize existing databases and plan a database for cultural goods found during illicit archaeological excavations</p> <p>Recommendation 2: Create databases that are compatible between countries and are accessible by the public</p>	<p>1) Greece</p> <p>2) Portugal, Belgium, Austria, Germany, Luxembourg, Estonia</p>
Movement of cultural goods		
Legislative recommendations	<p>Recommendation 1: Introduce a certificate for moving cultural goods from one country to another, which would apply to national treasures in a similar way to the export certificate</p> <p>Recommendation 2: Set up border controls for cultural goods</p>	<p>1) Greece</p> <p>2) Greece</p> <p>3) Germany</p> <p>4) Czech Republic</p>

⁸⁹ The citation “OMC Report on due diligence” refers to the following report: *European Expert Group on Mobility of Collections, sub-working group on the prevention of thefts and trafficking in cultural goods, implementation of due diligence*, prepared by Smaragda Boutopoulou and Marlen Mouliou (Greece), February – May 2010.

Type	Recommendations	Source
	<p>transported within the European Union would be a very important measure in the fight against trafficking in cultural goods (Art. 30 of the TCE)</p> <p>Recommendation 3: Ban the import of cultural goods without export authorization</p> <p>Recommendation 4: An electronic export certificate will be the most practical format</p> <p>Recommendation 5: Standardize transit and export documents, and adopt the model of export certificate for cultural goods developed jointly by UNESCO and WCO</p> <p>Recommendation 6: Promote the use of inventories with photographs</p>	<p>5) 2004/7 Reports⁹⁰, Commission Reports on the Directive⁹¹, INTERPOL, UNODC</p> <p>6) Estonia</p>
Operational recommendations	<p>Recommendation 1: Establish spot checks by customs officers on the road network</p>	<p>1) Greece</p>

⁹⁰ The citations “2004/2007 Reports”, “2004 Report” and “2007 Report” refer to: Call for Tender MARKT/2003/05/C, Analysis of structures and mechanisms for disseminating the data which authorities require to ensure that the directive on cultural property is being enforced, Final Report and Annexes, Information & Communication Partners, 28 December 2004, for the citation “2004 Report”, and Contract No. 30-CE-0102617/00-49, Analysis of structures and mechanisms for disseminating the data which authorities require to ensure that the directive on cultural property is being enforced, Extension to the twelve 2004 new Member States, Final Report and Annexes, written by Marlène Cattelain and Jean-Claude Deheneffe, 31 October 2007, for the citation “2007 Report”..

⁹¹ The citations “Commission Reports on the Directive” refer to the: Report from the Commission to the Council, the European Parliament and the European Economic and Social Committee of 30 July 2009 – Third report on the application of Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State, COM(2009) 408 final; Report from the Commission to the Council, the European Parliament and the European Economic and Social Committee of 21 December 2005 – Second report on the application of Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State, COM(2005) 675 final; Report from the Commission to the Council, the European Parliament and the Economic and Social Committee of 25 May 2000 on the implementation of Council Regulation (EEC) No 3911/92 on the export of cultural goods and Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State, COM (2000) 325 final.

Recommendations concerning police forces / customs

Type	Recommendations	Source
	<p>Recommendation 2: Introduce legally an import certificate for cultural goods</p> <p>Recommendation 3: Guarantee the confidentiality of export authorizations for cultural goods issued to individuals. This will encourage people who fear the theft of their cultural goods to request an export licence for their valuable objects</p>	<p>2) Cyprus</p> <p>3) 2006 Report (Nordic countries)⁹²</p>
Technical recommendations		
Recovery of objects in illicit situations		
Legislative recommendations	<p>Recommendation 1: Harmonize offences concerning cultural goods at the European level</p> <p>Recommendation 2: Harmonize the main legislation on detecting and legally processing cultural goods, and returning them to their country of origin</p> <p>Recommendation 3: Strong British legislation enabling the investigation and resolution of cases involving tainted goods detected at borders</p> <p>Recommendation 4: A law preventing the purchase of antiques of unknown provenance</p> <p>Recommendation 5: Buyers are responsible for ensuring that goods have been exported legally and identifying the country of origin. Certificates of the country of origin and/or the export licence could be provided with each item</p> <p>Recommendation 6: Introduce a new criminal offence concerning the theft of cultural goods and illicit archaeological excavations</p>	<p>1) Netherlands, Portugal, Austria</p> <p>2) Portugal</p> <p>3) United Kingdom</p> <p>4) United Kingdom</p> <p>5) United Kingdom</p> <p>6) Austria</p> <p>7) Austria</p> <p>8) Cyprus</p>

⁹² The citation “2006 Report (Nordic countries)” refers to: *Cultural Heritage Crime – the Nordic Dimension*, Report 2006:2, The Swedish National Council for Crime Prevention, Information and Publication, written by Lars Korsell, Göran Hedlund, Sofia Elwér, Daniel Vesterhav and Anita Heber.

Type	Recommendations	Source
	<p>Recommendation 7: Introduce a specific limitation period for cultural goods since the current period defined by criminal law is very short, and a stricter application of the law regarding handling offences</p> <p>Recommendation 8: Introduce a more favourable regime for admitting and evaluating evidence on the illicit provenance of cultural goods, simplifying procedures for confiscating and returning cultural goods, ratifying relevant international instruments, and encouraging EU Member States to enter into bilateral agreements, given that bilateral cooperation is considered more effective than multilateral cooperation</p>	
Operational recommendations	<p>Recommendation 1: Improve police training in combating trafficking in cultural goods</p> <p>Recommendation 2: Organize joint training and promote the exchange of best practices between the police, customs officials and central administrations in the different States</p> <p>Recommendation 3: Publication by the police of catalogues of stolen cultural goods</p> <p>Recommendation 4: Create in each State a national unit to collect information on stolen goods. This should not be the national INTERPOL national bureau, which is essentially a “contact point.”</p> <p>Recommendation 5: Create an obligation to keep a transaction register</p> <p>Recommendation 6: Stimulate contact networks such as INTERPOL conferences every two or three years</p> <p>Recommendation 7: Increase the number of employees to improve the application of European measures</p>	<p>1) Greece, Spain, Portugal, Luxembourg</p> <p>2) Greece, United Kingdom, Borghese, 2006 Report (Nordic countries)</p> <p>3) Portugal, 2006 Report (Nordic countries)</p> <p>4) Belgium, Germany, Croatia, UEHHA Report⁹³</p> <p>5) Belgium</p> <p>6) Belgium</p> <p>7) Austria</p> <p>8) Luxembourg, INTERPOL Expert Group</p> <p>9) Luxembourg</p>

⁹³ The citation “UEHHA Report” refers to the report submitted by the European Historic Houses Associations for this study.

Recommendations concerning police forces / customs

Type	Recommendations	Source
	<p>Recommendation 8: Authorize the customs authorities of Member States to control and investigate imports of cultural goods and to hold them for verification</p> <p>Recommendation 9: National and European institutions should be required to create a uniform method of carrying out control operations</p> <p>Recommendation 10: Set up a single point of contact within Europol</p> <p>Recommendation 11: Cooperate with the national and foreign police, and INTERPOL</p> <p>Recommendation 12: Support the regular exchange of best practices between police services specialized in the trafficking in cultural goods, as well as information and awareness-raising for the European public</p> <p>Recommendation 13: Analyse data on the theft of cultural goods and use this information to introduce preventative measures</p> <p>Recommendation 14: The police and customs authorities should cooperate with cultural heritage experts</p> <p>Recommendation 15: Train customs officers and set up an email list of cultural heritage specialists who can assist them with control operations</p>	<p>10) Slovakia</p> <p>11) INTERPOL Expert Group</p> <p>12) Cyprus</p> <p>13) 2006 Report (Nordic countries)</p> <p>14) 2006 Report (Nordic countries)</p> <p>15) 2006 Report (Nordic countries)</p>
<p>Technical recommendations</p>	<p>Recommendation 1: Reinforce police means of action through specialist equipment</p> <p>Recommendation 2: Reflect on a centralized database, which could be INTERPOL. However, it would be necessary to review the criteria for describing goods (24) and reduce them to about 15.</p> <p>Recommendation 3: Everyone should be able to add items to the database [INTERPOL]</p> <p>Recommendation 4: Enable art dealers and the public to access national databases</p>	<p>1) Greece</p> <p>2) Belgium</p> <p>3) United Kingdom</p> <p>4) United Kingdom</p> <p>5) Austria</p> <p>6) Croatia</p> <p>7) 2006 Report (Nordic countries)</p>

Type	Recommendations	Source
	<p>Recommendation 5: Enable the public to access the database on applications for export authorizations for cultural goods and authorizations issued in the EU</p> <p>Recommendation 6: Introduce a requirement to add data to the INTERPOL database</p> <p>Recommendation 7: Gather the data processed on thefts of cultural goods in a national database including information sheets and photographs. However, this would preferably be a database at the highest level.</p>	

Type	Recommendations	Source
Provenance/identification of the cultural goods		
Legislative recommendations	<p>Recommendation 1: It is essential for the appropriation of archaeological items through clandestine excavations to be considered theft, in line with the legislation of the State of origin</p> <p>Recommendation 2: Enable the acknowledgement of evidence provided by scientific studies indicating with sufficient precision the place of discovery, in proceedings at the relevant courts of law</p> <p>Recommendation 3: Amend the <i>KultGüRückG</i> to introduce measures on the inventory of cultural goods of national value</p> <p>Recommendation 4: Fossils should benefit from the same protection regime as archaeological goods</p> <p>Recommendation 5: Improve coordination at the European level for determining “ownership”</p>	<ol style="list-style-type: none"> 1) Italy, Spain 2) Italy 3) Germany 4) Germany 5) Luxembourg
Operational recommendations	<p>Recommendation 1: Promote the reappropriation of ancient monuments by cultural associations</p>	<ol style="list-style-type: none"> 1) 2006 Report (Nordic countries)
Technical recommendations	<p>Recommendation 1: Reserve the marking of works to objects existing in several copies and exceptional objects</p> <p>Recommendation 2: Use the Object ID international standard or a similar document to identify cultural goods</p> <p>Recommendation 3: Create a shared database at the European level bringing together national treasures, including precise descriptions and photographs</p> <p>Recommendation 4: Define criteria for organizing the databases</p>	<ol style="list-style-type: none"> 1) Belgium 2) Germany, Austria 3) Borghese, 2004/7 Reports 4) Borghese
Movement of Cultural goods		
Legislative recommendations	<p>Recommendation 1: Create a “Neighbourhood Watch” zone in historical and archaeological centres, especially near to churches</p>	<ol style="list-style-type: none"> 1) Germany 2) Bulgaria, OMC, 2004/7

Type	Recommendations	Source
	Recommendation 2: Create a single shared, standard administrative document accompanying each cultural item to facilitate the control of lawful transit outside the Member State of origin, and create a passport for cultural objects indicating their origin	Reports
Operational recommendations		
Technical recommendations		
Recovery of objects in illicit situations		
Legislative recommendations	<p>Recommendation 1: Define more clearly the notion of “possession in good faith” for goods of illicit origin and illegally exported, because this concept is often used to delay the restitution procedure</p> <p>Recommendation 2: Increase to three years the period for proposing action concerning a restitution provided for by the Directive</p> <p>Recommendation 3: The requesting State should consider the illicit nature of exports</p> <p>Recommendation 4: Due care and attention must be demonstrated by the owner or person in possession of the goods and should not be based merely on the letter of the law of the State. The good faith of the person in possession of the goods should be considered only to establish the indemnity set out in Article 9 of the Directive.</p> <p>Recommendation 5: “Cultural goods” status must be awarded on the basis of the legislative provisions of the Member State to which the object belongs.</p> <p>Recommendation 6: Reinforce the law incriminating the possession of archaeological goods that do not have a certificate of provenance or export authorization</p> <p>Recommendation 7: Bilateral agreements are an effective solution for the</p>	<p>1) Spain</p> <p>2) Italy</p> <p>3) Italy</p> <p>4) Italy</p> <p>5) Italy</p> <p>6) Germany</p> <p>7) Turkey</p> <p>8) Borghese</p> <p>9) Borghese</p>

Type	Recommendations	Source
	<p>restitution of cultural goods</p> <p>Recommendation 8: Introduce the option of cultural goods involved in a dispute being held by a neutral body in the event of release of seized property until settlement of the dispute.</p> <p>Recommendation 9: Set up a decision-making committee whose opinions would be binding on market stakeholders.</p>	
Operational recommendations	<p>Recommendation 1: Publish the ICOM Red List in the [German] press</p> <p>Recommendation 2: Carry out studies on the nature and extent of trafficking in cultural goods in each of the Member States</p> <p>Recommendation 3: Raise awareness of and publicize alternate means of restitution and the existence of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation</p> <p>Recommendation 4: Develop and disseminate a best practice guide for restitutions</p>	<p>1) Germany</p> <p>2) Luxembourg</p> <p>3) Borghese</p> <p>4) Borghese</p>
Technical recommendations		

Type	Recommendations	Source
Origin/identification of heritage		
Legislative recommendations	<p>Recommendation 1: Liberalize the sale of antique monuments without historical or financial value, of which there are many on Greek territory</p> <p>Recommendation 2: It is imperative that cultural goods for sale demonstrate verifiable provenance dating back 30 years</p>	<p>1) Greece</p> <p>2) 2006 Report (Nordic countries)</p>
Operational recommendations	<p>Recommendation 1: Reinforce the importance of dialogue with the State on cultural goods and consultation with antique dealers when developing laws on the protection of cultural heritage</p> <p>Recommendation 2: The restitution of stolen objects circulating in the art market of their country of origin can constitute a deterrent for the market to put objects of doubtful origin up for sale, as well as encourage a drop in price of the objects</p> <p>Recommendation 3: Boost the role and powers of professional bodies as well as disciplinary sanctions</p> <p>Recommendation 4: Ask art dealers to consult databases before making a purchase. This implies facilitating their access to the databases.</p>	<p>1) Greece</p> <p>2) Turkey</p> <p>3) Borghese</p> <p>4) 2006 Report (Nordic countries)</p>
Technical recommendations	<p>Recommendation 1: Develop a database of all information linked to commercial transactions, updated by galleries and art dealers</p> <p>Recommendation 2: Promote the use of the handbook for purchasers of cultural goods</p>	<p>1) Estonia, Romania, UNODC</p> <p>2) Borghese</p>
Movement of cultural goods		
Legislative recommendations	<p>Recommendation 1: Introduce the transaction register in all States for art market professionals</p>	<p>1) Croatia</p>
Operational	<p>Recommendation 1: Contact websites to inform them of the obligation of</p>	<p>1) OMC</p>

Type	Recommendations	Source
recommendations	<p>diligence and to require online sellers, auctioneers and private collectors to submit a list of past and present auctions of cultural objects, and to keep it for an appropriate length of time before and after auctions</p> <p>Recommendation 2: Encourage online sales sites to post a warning on their pages regarding the sale of cultural objects</p> <p>Recommendation 3: Inform public and private collectors of the risks linked to the illicit purchase of cultural objects via the Internet and advise them to require comprehensive documentation before proceeding with purchases</p>	<p>2) OMC</p> <p>3) OMC</p>
Technical recommendations		
Recovery of objects in illicit situations		
Legislative recommendations	<p>Recommendation 1: Need for texts imposing stricter controls over sales companies</p> <p>Recommendation 2: Require the stricter application of due diligence rules by art dealers and auctioneers</p> <p>Recommendation 3: Develop the legal framework for online sales</p> <p>Recommendation 4: Set up a national authority responsible for permanently monitoring and controlling the online sale of cultural objects.</p> <p>Recommendation 5: Develop a standard procedure with specific measures to be taken in the case of trafficking in cultural goods over the Internet and organize staff training for this purpose</p>	<p>1) Belgium</p> <p>2) Germany, Austria, Turkey, Borghese, Romania</p> <p>3) Lithuania, Croatia</p> <p>4) INTERPOL Expert Group</p> <p>5) OMC</p>
Operational recommendations	<p>Recommendation 1: Promote the application of best practices among all institutions involved in the art market, especially in terms of documentation on the origin of cultural goods</p> <p>Recommendation 2: Encourage auction houses to collaborate with States during investigations into illicitly exported cultural goods</p>	<p>1) Spain</p> <p>2) Spain</p> <p>3) Finland</p> <p>4) Germany</p>

Type	Recommendations	Source
	<p>Recommendation 3: Demand strict controls on the online sale of cultural goods</p> <p>Recommendation 4: Oblige art market stakeholders to provide information to authorities</p> <p>Recommendation 5: Develop a best practice guide for the art market</p> <p>Recommendation 6: Widen the scope of the project with eBay to all protected goods in Austria</p> <p>Recommendation 7: Develop a European code of ethics for the art market</p> <p>Recommendation 8: Communicating widely on the risks linked to the acquisition of cultural goods of doubtful origins will encourage art dealers to carefully check the provenance of objects</p>	<p>5) Germany</p> <p>6) Austria</p> <p>7) Austria</p> <p>8) 2006 Report (Nordic countries)</p>
<p>Technical recommendations</p>		

Type	Recommendations	Source
Provenance/identification of the cultural goods		
Legislative recommendations	<p>Recommendation 1: Standardize and harmonize standards for the protection of cultural goods and the prevention of illicit movement.</p> <p>Recommendation 2: Reform Spanish criminal law to regulate the specific crime of looting archaeological sites</p> <p>Recommendation 3: Create a national register in each country to enable the introduction of a more flexible system for granting export licences and controlling stolen cultural goods</p> <p>Recommendation 4: Simplify the claims procedure in a similar way to the procedure set out in Directive 93/7/EEC</p> <p>Recommendation 5: Provide for a solution to the financial aspect of claims regarding compensation of good faith possessions as well as the exemption from prescription of cultural goods situated in the occupied territories of the Republic [of Cyprus]</p> <p>Recommendation 6: On a technical level, set up a joint database for all cultural goods in the Republic [of Cyprus], and digitize inventories</p> <p>Recommendation 7: Introduce a better inventory method, which could entail the division of collections into cultural goods at risk. The most valuable objects would be checked more frequently than the others.</p>	<p>1) Spain, Bulgaria, 2006 Report (Nordic countries)</p> <p>2) Spain</p> <p>3) Czech Republic</p> <p>4) Cyprus</p> <p>5) Cyprus</p> <p>6) Cyprus</p> <p>7) 2006 Report (Nordic countries)</p>
Operational recommendations	<p>Recommendation 1: Implement awareness campaigns aimed at staff and individuals to explain the importance of cultural heritage and its impact on society</p>	<p>1) Spain, Netherlands, Germany, Estonia, 2006 Report (Nordic countries)</p>
Technical recommendations	<p>Recommendation 1: Set up links between international and national databases</p> <p>Recommendation 2: Create a website dedicated to information on the national protection of cultural heritage (legislation in force)</p>	<p>1) Spain and Finland</p> <p>2) 2004-7 Reports, Borghese</p> <p>3) Bulgaria, Poland, Lithuania, Romania, Borghese, OMC</p>

Type	Recommendations	Source
	<p>Recommendation 3: Create a platform for different databases of cultural goods (inventories, stolen cultural goods), enabling the quick and efficient transmission of information using the “early alert system”</p> <p>Recommendation 4: Set up a shared database for all cultural goods in the Republic, and digitize inventories</p>	<p>4) Cyprus</p>
Movement of cultural goods		
Legislative recommendations	<p>Recommendation 1: Reinforce international legal standards to introduce cooperation on trafficking between the different countries</p> <p>Recommendation 2: Develop a joint administrative document for all EU countries while respecting national legal frameworks</p> <p>Recommendation 3: Harmonize, adapt and reinforce EU legal texts to take into account the reality of the Union of 27 States</p>	<p>1) Spain</p> <p>2) Germany</p> <p>3) Romania, Spain, Croatia, Borghese, Rapport 2007</p>
Operational recommendations	<p>Recommendation 1: Shorten the time required to issue cultural goods certificates through a modernized system</p>	<p>1) Borghese</p>
Technical recommendations		
Recovery of objects in illicit situations		
Legislative recommendations	<p>Recommendation 1: Explore the possibility of mediation in the context of restitutions in order to avoid high procedural costs</p> <p>Recommendation 2: It would be useful for Member States to be more familiar with procedures in the Council Directive on the restitution of cultural goods</p> <p>Recommendation 3: A better knowledge of different European legal systems would also be useful</p> <p>Recommendation 4: Regulate confiscation methods to ensure</p>	<p>1) Netherlands</p> <p>2) United Kingdom</p> <p>3) United Kingdom</p> <p>4) Finland</p> <p>5) Austria</p> <p>6) Poland, Latvia, Spain, Borghese</p> <p>7) Cyprus</p>

Type	Recommendations	Source
	<p>mobility of cultural goods and cultural exchanges</p> <p>Recommendation 5: Develop a new solution for compensating buyers who have acted in good faith, especially when the compensation is to be paid by a poor country</p> <p>Recommendation 6: Amend Directive 93/7 to enable individuals to act, increase and standardize the limitation period, and reinforce the protection of goods described in the INTERPOL database</p> <p>Recommendation 7: Highlight the need to take into account, both in the development of international instruments and in the legal practice of claims, the special circumstances unique to the situation of the Republic of Cyprus and the risk that this situation poses to the effective protection of Cypriot cultural heritage</p>	
Operational recommendations	<p>Recommendation 1: Simplify administrative procedures for the restitution of cultural goods in the European Union in the case of illicit exports</p> <p>Recommendation 2: Promote better cooperation between the different existing organizations – UNESCO, UNIDROIT, UNODC, INTERPOL, ICA, IFLA, ICOMOS, WCO, WMF and ICOM – on the issue of trafficking in cultural goods</p> <p>Recommendation 3: Improve the exchange of information between Member States, for example, through an Internet platform, given that institutions such as ICA, ICOM and IFLA could be integrated into such a platform</p> <p>Recommendation 4: On a national scale, it would be useful to develop training and awareness-building programmes for police and customs officers on cultural goods issues, together with improved cooperation between the Ministry of Culture and institutions in charge of</p>	<p>1) Spain, Latvia</p> <p>2) Netherlands</p> <p>3) Netherlands</p> <p>4) Netherlands, Finland</p> <p>5) Netherlands, Germany, Romania, Estonia, Lithuania, Spain, Borghese</p> <p>6) Turkey</p> <p>7) Slovakia, Romania, INTERPOL</p>

Type	Recommendations	Source
	<p>protecting Dutch cultural heritage.</p> <p>Recommendation 5: Promote cooperation between institutions in charge of protecting cultural heritage and art market stakeholders</p> <p>Recommendation 6: Develop cooperation agreements</p> <p>Recommendation 7: Develop a template document for describing and communicating cultural heritage offences</p>	
<p>Technical recommendations</p>	<p>Recommendation 1: Organize joint pilot projects and research with customs authorities, police and institutions in charge of protecting cultural heritage to obtain a clearer idea of the extent and nature of trafficking in cultural goods from a practical perspective</p> <p>Recommendation 2: Create an international database of illicitly exported cultural goods with photos, which would be user-friendly for authorities in charge of protecting cultural goods</p> <p>Recommendation 3: Create an EU-level database with the aim of exchanging information on stolen cultural goods</p>	<p>1) Netherlands</p> <p>2) Sweden</p> <p>3) Hungary, Luxembourg</p>

Type	Recommendations	Source
Provenance/identification of cultural goods		
Legislative recommendations	<p>Recommendation 1: An update of legislation on cultural goods is considered essential to take into account as scientific studies establish new facts on the importance and scientific value of entire eras, and with the passing of time. The more time that passes, the more age thresholds must be moved forward</p> <p>Recommendation 2: Encourage States to ratify all international conventions on the protection of cultural heritage to produce a more homogeneous legal framework</p> <p>Recommendation 3: Ratify the 1995 UNIDROIT Convention</p> <p>Recommendation 4: Develop a general directive</p> <p>Recommendation 5: Set up a three-dimensional (3D) register of cultural goods, as well as a collective database for Cypriot museums</p> <p>Recommendation 6: All art dealers and cultural institutions should provide links to legislation</p> <p>Recommendation 7: Communicate information on national legislation through in-flight magazines</p>	<p>1) Greece</p> <p>2) Greece</p> <p>3) Austria, Switzerland, Borghese</p> <p>4) Austria</p> <p>5) Cyprus</p> <p>6) 2006 Report (Nordic countries)</p> <p>7) 2006 Report (Nordic countries)</p>
Operational recommendations	<p>Recommendation 1: Promote the exchange of collections between museums as a preventative measure against the acquisition of goods of doubtful origin</p> <p>Recommendation 2: Promote the exemplarity of public institutions and museums in terms of best practices</p> <p>Recommendation 3: Set up an EU-level initiative for the reinforcement of security at archaeological sites</p>	<p>1) Greece</p> <p>2) Borghese</p> <p>3) Cyprus</p>
Technical recommendations	<p>Recommendation 1: Underline the critical importance of ongoing updates to databases as well as immediate documentation of all cultural goods in</p>	<p>1) Greece, UNODC, Borghese</p>

Type	Recommendations	Source
	<p>museum reserves to prevent trafficking and to facilitate the identification and control of the origin of cultural goods</p> <p>Recommendation 2: Standardize the criteria for inventorying museum collections, registers of dealers, and databases</p> <p>Recommendation 3: Introduce a standard system for marking cultural goods</p>	<p>2) Bulgaria, Borghese</p> <p>3) Slovakia, Borghese, 2004/7 Reports, Commission Reports on the Directive</p>
Movement of cultural goods		
Legislative recommendations		
Operational recommendations	<p>Recommendation 1: Improve the training and recruitment of museum attendants to improve the protection of museums against theft</p> <p>Recommendation 2: Implementation by museums and institutions of preventative security measures based on risk evaluation</p>	<p>1) Greece</p> <p>2) 2006 Report (Nordic countries)</p>
Technical recommendations		
Recovery of objects in illicit situations		
Legislative recommendations	<p>Recommendation 1: It is important for all States to apply the ICOM Code of Ethics for museums</p>	<p>1) Greece, Turkey</p>
Operational recommendations	<p>Recommendation 1: Reinforce accessibility and transparency of information on high-value cultural goods</p> <p>Recommendation 2: Provide financial assistance to museums seeking to discover the provenance of cultural goods</p> <p>Recommendation 3: Create pressure groups and exert media pressure on owners who refuse to return illicitly acquired cultural goods, and raise public awareness of the protection of cultural heritage</p>	<p>1) Germany</p> <p>2) Germany</p> <p>3) Cyprus</p>

Recommendations for authorities

Type	Recommendations	Source
Technical recommendations	Recommendation 1: Create a database of looted cultural goods	1) Germany

Type	Recommendations	Source
Provenance/identification of cultural goods		
Legislative recommendations		
Operational recommendations		
Technical recommendations	<p>Recommendation 1: Standardize a European-level inventory system that could be added to the current system in force in the country and eventually replace it. Initially, it would be necessary to create a European inventory template to define the same evaluation criteria and raise awareness among owners of the need to participate</p> <p>Recommendation 2: Promote research into new technologies for protecting buildings and property. At the same time, it is important to ensure that these technologies are adapted to the restrictions that can be required by the listing [of a building]</p>	<p>1) UEHHA Report⁹⁴</p> <p>2) UEHHA Report</p>
Movement of cultural goods		
Legislative recommendations		
Operational recommendations		

⁹⁴ The citation “UEHHA Report” refers to the report submitted by the European Historic Houses Associations for this study.

Recommendations for private owners

Type	Recommendations	Source
Technical recommendations		
Recovery of objects in illicit situations		
Legislative recommendations	<p>Recommendation 1: Standardize the law on handling, especially in Belgium and the Netherlands, where the limitation period is 5 years</p>	<p>1) UEHHA Report</p>
Operational recommendations	<p>Recommendation 1: Bridge the gap between theft, which is local, and trafficking, which is international</p> <p>Recommendation 2: Another option could be proposed if the creation of a special police unit is impossible: delegate part of the police responsibility to a body that would be responsible for trafficking issues. This requires finding the means to create bridges between the major institutions that have the knowledge and databases, and owners who have been victims of theft: national associations of historic houses could become this intermediary</p>	<p>1) UEHHA Report</p> <p>2) UEHHA Report</p>
Technical recommendations		

Annex 5
Tools, summary and recommendations developed
by the European Historic Houses Association

Annex 5.1

Questionnaire transmitted by the European Historic Houses Association to its members



- In which European Union country is your property located?

Theft

- Have you ever been a victim of theft?

Yes

No

- What kind of cultural goods were stolen from you?

- Have you recovered your belongings? If yes, in which country or countries were they recovered?

- What do you do when you are a victim of theft?

- What was the reaction time of the police?

- Were you kept informed during the investigation?

- In your opinion, is cooperation between the local and national authorities and the police sufficient?
-

- What problems have you encountered with the different authorities?
-

- Have you resorted to private investigation agencies?

Yes

No

Prevention of theft

- Have you made an inventory of your possessions?

Yes

No,

Difficult to do

Negligence

Lack of time

Other

- Have you any doubts regarding the reliability of existing inventory systems?

Yes

Explain why:

No

- Do you consider yourself well protected against theft?

Yes

No

- Do you think that protection against theft is expensive?

Yes

No

- What type of security system do you prefer?

Mechanical protection

Physical protection

- Do you have a caretaker or resident warden?

Yes

No

- Do you have an alarm system or other protective measures?

Yes,

External alarms

With monitoring

External lighting

No

- Are you satisfied with that system?

Yes, why?

No, why?

- What other preventive/deterrent measures have you adopted?

Gate

Shutters

Presence of dogs

Have you already requested the services of security professionals/law enforcement authorities?

Yes

For what reasons?

No

Exchange of information/best practices

How are you informed about thefts?

By neighbours

By Internet

By an association of which you are a member

By the public authorities: *Administration of property* *Police*

By an insurance company

Other:

Opening to the public

- Do you loan any objects for exhibitions?

Yes

No

Explain why:

- Is your property open to the public?

Yes

No

Explain why:

Annex 5.2

Overview of replies to the questionnaire

Report prepared by Pauline Ringoot

Background

The European Historic Houses Association cooperated with the Centre for International Legal Cooperation Studies (CECOJI) – operating directly under the auspices of the French National Centre for Scientific Research (CNRS) – in conducting a study on preventing and combating trafficking in cultural goods in the European Union, commissioned by the Directorate-General for Home Affairs of the European Commission.

The Association circulated a questionnaire to its members, in English and French, on the difficulties faced by private owners in relation to trafficking, on the one hand, and on the best practices developed to combat and prevent risks of theft and other offences against cultural goods, on the other. The European Historic Houses Association represents owners who have experienced theft, i.e. victims of trafficking.

The fight against trafficking is central to the Association's activities. It has focused its work on the issue for many years and exchanges information with its members on the difficulties faced by historic house owners at the national level. Furthermore, it should be recalled that the European Historic Houses Association held its general assembly in Madrid, in 2008, on this theme (combating the theft, handling and trafficking in works of art), bringing together the leading figures on the subject.

RESULTS OF THE SURVEY

The European Historic Houses Association is responsible for circulating to its members – 18 national associations spread across 16 European countries⁹⁵ - a questionnaire intended for private owners of historic houses. The purpose of the questionnaire is to identify the causes of the difficulties faced by owners and to establish in each case a typology of the different scenarios.

Number of questionnaires received

82 replies to questionnaires were received from our members, mainly from:

- the United Kingdom: 37 questionnaires
- France: 28 questionnaires
- Belgium: 15 questionnaires
- Italy: 1 questionnaire
- Portugal: 1 questionnaire

Comments

The failure of some of our members to respond may be interpreted as an expression of reluctance to provide us with information on the subject. We were surprised to receive only one reply from Italy even though it is the country most affected by this issue. Moreover, the German Historic Houses Association shared with us the concerns expressed by its members about replying to the questionnaire, even though we guaranteed their anonymity.

We received an overview of the situation of trafficking in Estonia which we must take into account in the suggestions to be announced. According to Jaanus Kiili, President of the Estonian Manor Association, trafficking “does not exist” in Estonia since most historic houses have been emptied of their movable cultural heritage (paintings, collections of objects, furniture). Private collections and furniture of cultural and historical value are not usually on public display and, where they are (in a minority of cases), owners use several security systems.⁹⁶

⁹⁵ Austria, France, United Kingdom, Belgium, the Netherlands, Italy, Switzerland, Ireland, Germany, Estonia, Czech Republic, Denmark, Portugal, Spain, Sweden and Finland.

⁹⁶ An electronic security system linked to the doors and windows with motion sensors in each room that record every movement. Some motion sensors are specific and may be adjusted to a sufficient height to ensure that dogs and other domestic animals do not trigger the system (solution adopted by museums and some 15-20% of owners). Video surveillance and external lighting systems control the area surrounding the house and may be triggered by a voice recognition system that reacts to the slightest sound and movement (detection capacity of 25 to 40 metres). This system may be autonomous or connected to the security service central unit, or even connected directly to the mobile telephone of the owner, who is thus informed as soon as the alarm is triggered. Traditional deterrents are also used, such as dogs, hedges, gates and bars.

*Theft**Number of victims of theft*

Of the 82 questionnaires received, **48 owners** of historic houses – i.e. some 58% of members – have experienced one or more thefts (of one or more objects) in their property.

Comments

While it should be borne in mind that those individuals concerned with this issue are more vulnerable to theft, the reality is that more than 50% of owners who replied to the questionnaire have experienced theft. This shows that historic houses are a key target. It is important to take this into account in studies with a view to finding effective international solutions.

	Belgium	France	Italy	Portugal	United Kingdom	Total
Questionnaires received by country	15	28	1	1	37	82
Number of victims of theft	7	16	1	1	23	48

This table also shows the number of owners who have been victims of theft by country and it is interesting to note that all the countries which replied to the questionnaire are affected to the same extent (some 50%) by trafficking in cultural goods. These figures are consistent with our existing knowledge of trafficking and call for European cooperation on the issue.

Types of stolen objects

Country	Type and number of stolen objects							Total
	Paintings	Furniture	Clocks	Jewellery	Tapestry	Silverware	Sculpture	
Belgium	2	3	2	1	1	4	0	13
France	2	8	11	5	2	3	0	31
Italy	0	1	0	0	0	0	0	1
Portugal	1	0	0	1	0	0	0	2
United Kingdom	7	2	7	3	0	7	5	31
Overall total	12	14	20	10	3	14	5	78

Recovered objects

Out of our sample of 48 historic house owners who had experienced theft, **only 11** had recovered their objects. Of these 11 owners, 6 fully recovered their goods and 5 recovered their goods only partially. Of the 11 owners who recovered their goods, 4 recovered them abroad, in the European Union, including 3 in the Netherlands. They were recovered from antique shops or auction houses. The time taken for recovering stolen objects varied from 1 month to 10 years.

Comments and recommendations

The opening of borders within the European Union and the lack of harmonization of legislation seem to be the two factors accounting for the recovery of objects abroad, which makes searching difficult. Different countries are not equally equipped to combat trafficking, for instance with regard to legislation on handling – which should be harmonized, particularly in Belgium and the Netherlands, where the limitation period is five years.

Action taken by owners

In 44 out of 48 cases (91%), owners who are victims of theft lodged a complaint and called the local police force. This action may be combined with other forms of action:

- contacting the insurance company (15/48, i.e. 31%)
- contacting the private historic houses association (3/48, i.e. 6%)
- contacting local antique dealers (3/48, i.e. 6%)
- in addition, some owners check their security systems, review the way in which objects are displayed (particular attention is paid to objects located near windows) and lock away a number of highly valuable items
- of the 82 questionnaires we received, a private investigation company was called upon in only one case.

Of the 48 owners who experienced theft, 24 (50%) considered that the police reacted quickly and 53% were informed of the follow-up to the case.

Conversely, 25 owners – more than half (52%) of the 48 owners having experienced theft – deplored the lack of cooperation between the local and national authorities and police services and 17 (35%) considered that they had encountered problems with the various authorities. In particular, owners perceived a lack of interest in combating art trafficking (such cases being treated as ordinary theft), which also accounted for the slow pace of proceedings – a recurrent theme in our questionnaires. The assistance provided to owners was far swifter and more serious when weapons had been stolen.

Comments and recommendations

It should be noted that the local police is the reference body in the event of theft (first point of contact for 91% of owners). There is, however, a genuine communication problem between owners and the security services involved. At the local level, the police are not in a position to deal with this type of case (lack of interest, time, resources, skills). It is essential to bridge the gap between theft, which is local and trafficking, which is international.

Three solutions may be considered to address the problem:

It would be desirable to set up specialized police forces in other countries or to create a European security service. Only France and Italy have established specialized police bodies such as the Office Central de Lutte Contre le Trafic des Biens Culturels [Central Office for the Fight against Trafficking in Cultural goods] (OCBC) in France and the Carabinieri in Italy. These specialized police bodies should place more emphasis on

awareness-raising and training of their local police through the organization of seminars and training courses.

If countries are deemed unable to establish this type of body, another possibility may be considered to the extent that the European Union recognizes trafficking in cultural goods as an aggravating circumstance. Consideration may be given to devolving some of the responsibilities of the police to a body that is better equipped to deal with issues relating to trafficking in cultural goods. It is necessary to find ways of building bridges between, on the one hand, the major institutions that have the knowledge and databases and, on the other, the owners who are victims of theft – an intermediary role that may be played by the national historic houses associations.

Only 6% of owners automatically report thefts to the association. The role of the national historic houses associations in the area of trafficking must be strengthened. A person competent in this area should be designated as a focal point, liaising with a person from the specialized police body or one of the major institutions (UNESCO and INTERPOL). Owners who are victims of theft would thus have a contact person to refer to within the association. Moreover, as theft always comes as an emotional shock, promoting human contact and mutual trust through this relay system will provide effective assistance for owners at a difficult time.

In countries in which there is no historic houses association⁹⁷ or where there are very limited resources⁹⁸, owners must be encouraged to create private networks such as the Stately Home Hotline⁹⁹, a security advisory service for British properties, museums and historical gardens which works in liaison with a number of organizations, including police forces, while remaining completely independent. It disseminates information through email bulletins to pre-registered recipients, enabling owners to identify risks to their property and take the appropriate preventative measures. Owners would have more confidence in a network of private owners or the historic houses association because they sometimes have reservations about public bodies, as it has been shown that in some cases art professionals cooperate closely with thieves.

Prevention of theft

Keeping an inventory

Out of the 82 owners who replied, 62 (75%) kept an inventory of their movable property. In 48% of cases, the reason for this was stated to be for insurance purposes, but owners also noted their interest in having knowledge of their collection (seven owners). An inventory helped to improve knowledge of a collection so as to better identify and assess it, and also played an important role in inheritance issues (four owners). Regarded as an effective means of guarding against theft and recovering stolen objects, an inventory thus contributed to enhancing security for owners.

The few owners who do not keep an inventory put forward the following main reasons (in decreasing order):

⁹⁷ Norway, Latvia, Greece, Slovakia, Slovenia, Cyprus, Malta, Bulgaria, Romania, Hungary.

⁹⁸ In Ireland, for instance.

⁹⁹ www.statelyhomehotline.co.uk

- negligence (4/82)
- lack of time (4/82)
- cost (3/82)
- difficult to draw up an inventory (2/82)
- fear that it might fall into the wrong hands (1/82)

Comments and recommendations

An inventory is an essential tool for preventing theft, which is why 75% of owners draw up an inventory. It is not linked to the issue of theft since only two owners decided to draw up an inventory following a theft. Owners, however, do not cease to keep an inventory following theft.

Doubts regarding the reliability of inventory systems were expressed by 20 out of 82 owners (24%). The following reasons were put forward by owners:

Keeping an up-to-date inventory is very difficult.

An inventory has no value unless the objects listed are illustrated by a photograph.

An inventory is not regarded as sufficient proof of ownership.

There is a lack of standardization among the various databases.

Insurance companies have different criteria.

In the light of all these comments, a standardized European inventory system may be combined with national systems and may eventually replace the latter. First, a “standard European inventory form” should be established in order to define the same assessment criteria and encourage owners in this endeavour. National historic houses associations could support owners in completing the form. Furthermore, the legal scope of the inventory should be strengthened to secure the protection – and especially to prove the ownership – of items.

Do owners feel effectively protected?

Of the 82 questionnaires received, 52 owners (63%) felt effectively protected, although 59 out of 82 owners (71%) considered that the cost of protection was significant.

Financial investment in the security system:

Less than €1,000: 8/82 (9.75%)

Between €1,000 and €5,000: 44/82 (53.6%)

More than €5,000: 21/82 (25.6%)

Note: 9 out of 82 owners (10%) did not reply to this question.

Preferred type of security system

Preferred type of security system:

Mechanical protection: 68/82 (82%)

Physical protection: 39/82 (47.5%)

32 owners had both types of system.

Caretaker?

42 out of 82 owners (51%) had a caretaker.

Alarm system or other protective measures?

Alarm system or other protective measures:

External alarms: 60/82 (73%)

Monitoring: 49/82 (59%)

External lighting: 48/82 (58%)

61 out of 82 owners (74%) were satisfied with their system.

The reasons for their satisfaction were as follows (in decreasing order):

- economical
- deterrent
- easy to install

Reasons for dissatisfaction:

- the system is visible, allowing thieves to examine it beforehand
- connection to a central unit is costly
- the alarm has limited power and duration: it is restricted to no more than three minutes/relations with neighbours become difficult.

Preventive measures

Preventive measures:

Gates: 49/82 (59.7%)

Shutters: 61/82 (74.4%)

Dogs: 44/82 (53.6%)

44 out of 82 owners (53%) had used the services of a security professional for the following reasons (in decreasing order):

- to optimize the alarm system
- to obtain advice on the best form of protection
- to monitor the house when the owners are absent
- to provide occasional security assistance at special events such as open days
- to install video surveillance

- to help to take photographs of objects

Comments and recommendations

It should be noted that owners protect themselves and endeavour to prevent theft by all means at their disposal (human, technical and financial resources). It is now more effective for owners to protect themselves against theft than to take action following theft, and so owners should be supported and encouraged to continue their efforts to prevent potential theft.

Accordingly, in addition to fostering cooperation among the various institutions in Member States, it is necessary to promote research into new technologies to protect buildings and properties (for example, the development of wireless alarms). It is nevertheless necessary to ensure that these protective measures are adapted to the restrictions that may apply to listed property. Five owners, for instance, took the view that shutters would be an effective preventive measure but were unable to install them as this would be a breach of the conditions of listing of the property!

Exchange of information and best practices

With whom do owners exchange information on best practices to be followed?

Insurance company: 23/82 (28%)

The association: 22/82 (26.8%)

Neighbours: 21/82 (25%)

Public authorities: 17/82 (20.7%)

Through personal initiatives of owners: 14/82 (17%) (reading, contacting private organizations, salesrooms and art dealers)

Internet : 6/82 (7.3%)

Comments and recommendations

The association is one of the first ports of call on the issue of theft, together with the insurance company. It is therefore important to strengthen the role of the association by providing it with the necessary skills to address the questions raised by its members. Emphasis should thus be placed on the association as a key partner, together with insurance companies.

Opening to the public

Property open to the public?

45/82 (54%) opened their property to the public either all year round or for special events.

Owners who did not open their houses to the public put forward the following reasons:

- home is a private place: “to live happily, live discreetly” (12/45, i.e. 26.6%)
- fear of theft (8/45, i.e. 17%)

- their house is of little interest (6/45, i.e. 13.3%)

Opening of houses by owners having experienced theft			
Country	Closed	Open	Total
Belgium	3	4	7
France	10	6	16
Italy	0	1	1
Portugal	0	1	1
United Kingdom	9	14	23
Total	22	26	48

Despite the fears and reservations expressed by our members, houses tended to be open to the public even when their owners had experienced theft (26 against 22 owners who closed their property to the public). Theft had no impact on owners' practices in terms of opening their house to the public and did not change their behaviour.

Loan of works of art?

32 out of 82 owners (39%) loaned objects for temporary exhibitions.

Owners who did not wish to loan works consider that this would provide an effective means of enabling traffickers to identify the cultural goods of a house (seven owners expressed this fear). Conversely, they would be prepared to cooperate by loaning objects if their anonymity were guaranteed. Most owners, however, did not loan works of art because they considered that their collection was of little viewing interest for the general public (16 owners put this reason forward).

Loan of works of art by owners victims of theft			
Country	No	Yes	Total
Belgium	5	2	7
France	11	5	16
Italy	0	1	1
Portugal	0	1	1
United Kingdom	11	12	23
Total	27	21	48

Comment:

The opposite trend is observed for the loan of works of art: 27 owners having experienced theft do not loan works of art.

Annex 5.3

Recommendations of the European Historic Houses Association

The study conducted by the European Historic Houses Association among its members has resulted in five key recommendations aimed at providing assistance to private owners of historic houses, with a view to both preventing theft at the local level and considering solutions to trafficking at the international level:

(1) establish a European database with specific criteria into which every owner could submit, through a recognized intermediary (police, historic houses association) a European inventory form describing the stolen or missing object, in duplicate – one copy in the language of the country and one translated into English;

(2) strengthen the legal status of the inventory, which would facilitate investigations and the traceability of objects in the event of theft, on the one hand, and the recovery of objects by their owners once they have been found, on the other;

(3) strengthen the role of the national historic houses association by establishing a focal point/contact person providing guidance on prevention and action to be taken in the event of theft. Recognized by the public authorities, this contact person would act as an intermediary between the owner who has experienced theft and the major specialized institutions that can share expertise and best practices. The focal point would be a qualified person trained by these international institutions through symposia and seminars. Any proliferation of cooperation initiatives should be avoided and focal points should be designated in each country;

(4) endeavour to harmonize national laws on the issue of trafficking and develop European legislation defining the terms “cultural goods”, “trafficking in cultural goods” and “handling”;

(5) encourage specialized police bodies to raise the awareness of local police through the organization of training seminars and awareness-raising symposia.

Annex 6
**Methodological tools developed in the context of this study to
analyse the information collected**

Annex 6.1
Methodological tools developed by Borghese Associates

1. Analysis table of the files of the Borghese law firm

Legal issues raised by the dispute	Procedure /strategy	Legal obstacles	Operational and practical obstacles	Comments/best practices observed Proposed solutions	Other

1. Which pieces of information do you require from your clients when transporting an artwork?

.....

2. Do you obtain that information easily?

.....

3. What are the customs regulations you have to observe to export from your country?

.....

4. Do you judge the present system and regulations as satisfactory?

.....

3. Analysis grid of the “Market” questionnaire by stakeholder

Information on the stakeholder Profession: Country:	Replies	Obstacles/difficulties observed	Comments/best practices observed
A. Provenance			
B. Export/import			
C. Recovery/Theft			
D. Training			

4. Analysis grid of the replies to the “Market” questionnaire by category (dealers, collectors, experts, auction houses, conservators and so forth)

A. PROVENANCE	Comments
A.1. Database consultation <div style="text-align: center;"> yes no </div>	
A.2. Cite the names of databases	
A.3. Reason for your choice: A.4. Consultation with a specialist <div style="text-align: center;"> yes no </div>	
A. 5. Other checks:	
A.6. Have your procedures changed in the last 10 years? <div style="text-align: center;"> yes no </div>	
A. 7. Are you satisfied with the tools currently available ? <div style="text-align: center;"> yes no </div>	
A. 8. Would you be interested in the solution of a one-stop platform? <div style="text-align: center;"> yes no </div>	
A. 9. How do you rate the importance of provenance?	
A.10. Do you file the information gathered on provenance? <div style="text-align: center;"> yes no </div> And do you keep the file?	

Methodological tools

yes	no	
A. 11. Would you like to have the possibility of registering information on the acquired object in a database?		
yes	no	
A.12. Do you take out insurance against theft when acquiring a work of art?		
yes	no	

B. EXPORT/IMPORT	Comments
B.1. Are you in possession of art objects that may circulate abroad? yes no	
B.2. Who do you approach regarding formalities for exporting and circulating artworks?	
B.3. Do you consider that circulation and export formalities are cumbersome? yes no	
B.4. Are you in favour of a single process before a single administrative body and, if so, which one? Authority chosen:	
B.5. If personal and nominative data about the ownership of artworks were accessible online, would this, in your view, hinder or facilitate their circulation? hinder facilitate	
B.6. What information do you provide to the company in charge of transporting an artwork across borders? yes no	

<p>B.7. Are you in favour of a best practices guide to prevent illicit import and export?</p> <p style="text-align: center;">yes no</p>	
<p>B.8. What do you think of freeports? What use, if any, do you make of them?</p>	

C. RECOVERY/THEFT	Comments
<p>C.1. Have you ever experienced the theft or disappearance of an artwork in your possession?</p> <p style="text-align: center;">yes no</p>	
<p>C.2. In the event of disappearance or theft, what would be your reaction?</p>	
<p>C. 3. In the event of disappearance or theft, what would be your priority?</p> <p style="text-align: center;">yes no</p>	
<p>C.4. To achieve this priority, would you be prepared to cover the cost of proceedings?</p> <p style="text-align: center;">yes no</p> <p>If so, how much would you be prepared to cover in relation to the value of the artwork?</p> <p style="text-align: center;">yes no</p> <p>Amount:</p> <p>C.5. Would you rather file your claim before a civil court or a criminal court?</p> <p style="text-align: center;">yes no</p>	
<p>C.6. Would you be prepared to compensate the good faith possessor so as to recover the artwork?</p> <p style="text-align: center;">yes no</p>	

<p>C.7. Have you ever been in possession of an artwork of dubious provenance?</p> <p style="text-align: center;">yes no</p>	
<p>C.8. In this situation, what was (or would be) your reaction?</p>	
<p>C.9. Would you be in favour of a best practices guide on the recovery of artworks?</p> <p style="text-align: center;">yes no</p>	

<p>D. YOUR BACKGROUND</p>	
<p>D.1. How long have you been in the fine arts business?</p> <p>between 1 and 5 years between 5 and 10 years between 10 and 20 years more than 20 years</p>	
<p>D.2. What is your training?</p>	
<p>D.3. Do you have access to information on fine arts business and its regulations?</p> <p style="text-align: center;">yes no</p>	
<p>D.4. Which specialized newspapers do you read?</p>	
<p>D.4. Bis. Which website do you consult?</p>	
<p>D.5. Would you be interested in training on the circulation of artworks?</p>	

yes	no
-----	----

E. QUESTIONS TO TRANSPORTATION COMPANIES	Comments
E.1. What information do you require from your clients when transporting an artwork?	
E.2. Is this information difficult to obtain ?	
E.3. What declarations do you have to make to customs?	
E.4. Do you consider the present system and regulations satisfactory?	

Annex 6.2
Methodological tools developed by CECOJI

1. National data tables

State	<i>* Cultural goods</i>							
	Legal definition	Existence of a notion of national treasure or other relevant cultural good of national cultural heritage where the circulation is not permitted	Other goods submitted to a restriction of circulation (license or authorization)	Do you identify other cultural goods at risk, under a special regime (archaeology, religious heritage etc...)?	Reference to a precise level (age, and/or economic value and/or other) in the definition of cultural goods	Reference to the immaterial dimension	Reference to the international or European law	Existence of an inventory or a register

Study on preventing and fighting illicit trafficking in cultural goods in the European Union

<i>* Institutions responsible for the control of the circulation of cultural goods – Exportation</i>									
	Authority charged with the control of exportation			Control of exportation					
State	<i>Denomination</i>	<i>Level of administration (central, federal, decentralized)</i>	<i>Connection with the Ministry of Culture (if different authority)</i>	<i>Organization or consulting bodies: denomination</i>	<i>Notice of instruction</i>	<i>Authority responsible for the authorization title</i>		<i>Nature of the title of circulation</i>	
						<i>EU</i>	<i>Non EU</i>	<i>EU</i>	<i>Non EU</i>

<i>* Institutions responsible for the control of circulation of cultural goods – Importation</i>									
	Authority charged with the control of importation			Control of importation					
State	<i>Denomination</i>	<i>Level of administration (central, federal, decentralized)</i>	<i>Connection with the Ministry of Culture (if different authority)</i>	<i>Organization or consulting bodies: denomination</i>	<i>Notice of instruction</i>	<i>Authority responsible for the authorization title</i>		<i>Nature of the title of circulation</i>	
						<i>EU</i>	<i>Non EU</i>	<i>EU</i>	<i>Non EU</i>

Methodological tools

<i>* Online sales of cultural goods</i>						
State	Existence of accords between the State or other institutions (ex. museums) and societies of online sales	Application of the “directive on electronic commerce ¹⁰⁰ ”			Obligation of vigilance regarding the provenance	Alert system in case of doubtful provenance
		Online sales of cultural goods as a regularised activity (If any, define the notion of cultural goods in discussion)	Consumers’ right to be informed (by the professionals) Special ordinance regarding online sales of cultural goods	Exclusive right of withdrawal from online sales when involving cultural goods		

¹⁰⁰ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (“Directive on electronic commerce”), Official Journal L 178 , 17/07/2000 P. 1-16

<i>* Due Diligence/ Good Faith</i>							
State	Definition (general or abstract)	Specific factors taken into consideration ¹⁰¹	Who is concerned by due diligence ^{102?}	Is good faith/ due diligence presumed?	Effect of the lack of an export certificate	Legal consequence of the lack of good faith/ due diligence ¹⁰³	What is the role of the time factor ^{104?}

** Criminal Offences*

Offences in common law									
	Theft				Handling of stolen goods			Illicit traffic of cultural goods	
State	Statutory provisions (Article of Criminal Law)	Cultural goods concerned	Sanctions	Statute of limitations Time limitations Evaluation of the regime	Statutory provision	Cultural goods concerned	Statute of limitations Time limitations Evaluation of the regime	Sanctions	Statute of limitations Time limitations Evaluation of the regime

¹⁰¹ Price, means of payment (cash/ check), parties involved (dealers, intermediaries, private collector, museum...), provenance, consultation of available registers, other circumstances...

¹⁰² Seller, buyer, both.

¹⁰³ Civil liability, nullity of the transaction, criminal sanction, administrative sanctions.

¹⁰⁴ Possibility to acquire property by the running of time, providing the possessor one is in good faith (*usucapio*)

Methodological tools

Special offences								
State	Specific cultural goods (nature and reference: ex. archaeological goods, archives, etc.)	Sanctions	Statute of limitations Time limitations Evaluation of the regime	Connection to criminal offences in common law	Breach of specific professional obligations (ex. registry)	Sanctions	Infringement of laws of circulation: ex. absence of certificate	Sanctions

Offences against customs law					
State	Statutory definitions and reference	Possible provisional measures	Statute of time limitation Evaluation of the regime	Sanctions	Transaction or other possible measures

** Legal and technical traceability*

State	Registered cultural goods	Inventories		Professional registers		Database of stolen, confiscated, unlawfully acquired... cultural goods	Obligations of marking
		Normative scope of the inventories	Informative scope of inventories	Professionals obliged to file a register	Results of registry		

2. Questionnaires for target groups

1°) *Questionnaire to the administrations and institutions responsible for the control of cultural goods mobility*

I. Procedures for the control of circulation

- 1) Which are the modes for the control of circulation of cultural goods?
- 2) Do you particularly follow / check online sales and risks of illegal exportation?
- 3) Do you particularly follow / check the sales at auction houses?
- 4) What are the difficulties that you meet while trying to control these sales:
 - In general?
 - For certain categories of cultural goods (archaeological goods, collections)?
- 5) What measures do you take when searches / excavations for items of archaeological value by metal detectors take place? Is there a legal framework for these devices?
- 6) Are you aware of regulations or do you follow specific procedures in case of doubt on the origin of a good?
- 7) What kind of procedures do you follow when you identify an object of your national cultural heritage being illicitly kept in another Member-State?
- 8) To what extent are the 1970 UNESCO Convention, the 1995 UNIDROIT Convention or the 1993 Council Directive 93/7/CEE useful to find an adequate solution (directly or indirectly)?
- 9) How do you cooperate with other foreign administrative units (at national, regional, supranational level)?
- 10) Do you have any privileged cooperation with other national, regional or international administrations?

II. Identification of obstacles to improve the system

- 1) What difficulties do you identify with regard to the exchange of data and information on theft and trafficking?
- 2) What difficulties do you meet regarding the identification of foreign cultural heritage?
- 3) What kind of difficulties results from the variety of national methods of control? Do you think it would be more efficient to have a uniform administrative document?
- 4) What difficulties do you meet regarding the cooperation at the EU / international level?

III. Towards solutions

Given the difficulties, what solutions do you recommend at legislative, technical, operational, deontological level?

2°) *Questionnaire to museums*

I. Methods for the control of origin

- 1) What kind of control regarding the provenance of a cultural good do you exercise when an object is offered to you?
 - Consultation via stolen goods databases?
 - Consultation with the authorities (precise which ones)

- 2) do you exercise differing degrees of due diligence according to whether you receive the object as a result of donation, legacy, sale or loan?
- 3) What do you do if you are a victim of theft?
- 4) How do you cooperate with:
 - Other museums?
 - The local authorities?
 - The foreign authorities?
 - With the private person or a State that makes a claim for restitution?
- 5) What do you do when an object of doubtful origin is proposed to you?
 - Do you refuse to take it?
 - Do you declare it to the local authorities?
 - Do you declare it to the international authorities?
 - Do you refrain?
 - Do you buy it?
- 6) What is your best practice on this issue?
- 7) How do you ensure the traceability of your objects (marking, inventory etc., reference to Object ID)?
- 8) What is your policy with regard to the acquisition of archaeological goods? How do you assess the traceability of these objects and / or the regularity of previous acquisitions or possessions?
- 9) Could the acquisition of archaeological heritage at particular risk of looting be guided by the desire to remove it from the market in order to facilitate the return to the country of origin?
- 10) Do you increase your due diligence checks for cultural goods from areas of conflict? What are these due diligence checks?
- 11) How do you react to a request from another State for restitution of a stolen or illicitly exported good?
- 12) How do you react when you identify an object from your museum which is illicitly located in another Member State?
- 13) To what extent are the 1970 UNESCO Convention, the 1995 UNIDROIT Convention or the 1993 Council Directive 93/7/CEE as useful to use while seeking solutions for the above two cases (directly or indirectly)?

II. Identification of obstacles in order to improve the system

- 1) What are the difficulties that you encounter when you research provenance?
- 2) What are the difficulties that you face in the event of a request for restitution?
 - When another State demands an object?
 - When you ask for an object?
- 3) What are the difficulties that you encounter when an object is stolen from your institution?

III. Towards solutions

- Given the difficulties, what solutions do you recommend at the legislative, technical, operational, ethical level?

3°) *Questionnaire to the Police*

I. Criminal offences

- 1) What criminal offences are relied on in case of illicit traffic of cultural goods? Are they effective (from the point of view of the police)?
- 2) What are the obstacles for the use of these criminal offences? Procedure (such as limitation periods) etc.?
- 3) Should there be a specific criminal offence in the field of illicit traffic of cultural goods?

II. Investigations

- 1) Are you a specialized police force in the field of illicit traffic of cultural goods?
- 2) What are the police forces in charge of the fight against the traffic of cultural goods?
- 3) How do you become aware of a theft of a cultural good or its handling /receiving stolen goods? Who informs you?
- 4) Have foreign diplomats or a foreign State ever referred to you?
- 5) How do you research the origin of cultural goods?
- 6) From your point of view, are there any particular categories of cultural heritage at risk? Which are they?
- 7) To what extent is archaeological heritage at particular risk?
- 8) Do you treat protected cultural goods in a different way from those that are not protected?
- 9) Do you use databases? Which ones?
 - As a creator of the databases?
 - As a provider of information?
 - As a recipient of information?
 - How do you make the selection of the cultural goods which are to be inserted into the database?
 - If there is a database, who is entitled to access it?
- 11) Do you control online sales? If yes, in which way?
- 12) Do you check the sales catalogues of auction houses?
- 13) Have you already seized cultural goods during an auction sale? If yes, how?
- 14) What are your relations with the other administrative bodies in charge of the movement of cultural goods and their control? Do these administrative bodies have these a special body of agents entitled to assess any criminal offences related to laws protecting cultural goods?
- 15) What are your relations with the police forces of other Member-States?
- 16) Do you use joint investigative teams ?
- 17) Do you use European legal means such as the European arrest warrant or the freezing of evidence during an investigation on the traffic of cultural goods?
- 18) At what stage does the restitution of a confiscated good take place? During the legal proceedings? After the judgment? Etc...

III. Identification of obstacles in order to improve the system

- 1) What are the obstacles regarding the knowledge of the origin of the goods?
- 2) What are the obstacles regarding the optimal prevention of trafficking?
- 3) What are the obstacles regarding an optimal crack down on trafficking?

IV. Towards solutions

- Given the difficulties, what solutions would you recommend at the legislative, technical, operational, ethical level?

4°) Questionnaire to Customs agencies

I. Offences against customs law

- 1) What kinds of customs offences that can be used in relation to the illicit traffic of cultural goods?
- 2) Are they effective?
- 3) What are the obstacles for the use of these criminal offences? Procedure (such as limitation periods) etc.?
- 4) Should there be a specific criminal offence in the field of illicit trade of cultural goods?

II. Customs control

- 1) How do customs controls take place in case of import of a cultural good?
- 2) How do customs controls take place in case of export of a cultural good?
- 3) What are the difficulties that you face?
- 4) Is the export certificate effective?
- 5) What do you think about an import certificate?
- 6) Do you know which cultural goods are protected by foreign legal systems?
- 7) What are your relations with transport firms / providers?
- 8) What do you do with a seized or confiscated cultural good?
- 9) Can you detain a cultural good of doubtful origin? If yes, for how long?

III. Relationships with other administrations

- 1) With which administrative bodies / institutions do you cooperate / advise?
 - Foreign customs
 - Ministry of Culture
 - Ministry of Foreign Affairs
 - Museums
 - Others...
- 2) What is the nature of these relationships?

IV. What are the obstacles for an effective control of the movement of cultural goods?

V. Towards solutions

- Given the difficulties, what solutions do you recommend at the legislative, technical, operational, ethical level?