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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

on the EU Action Plan against Trafficking in Cultural Goods

1. Introduction

Trafficking in cultural goods is a lucrative business for organised crime, and in some cases for conflict parties and terrorists¹. This is due in particular to the low risk of detection, the potential for high margins, and the attractive size of the licit² and illicit markets, driven by a stable to increasing global demand from collectors, investors and museums³.

Interpol counts over 850 000 artefacts seized globally in 2020, with more than half of these in Europe.⁴ Since 2016, the annual global Operation Pandora has led to 407 arrests and the recovery of 147 050 cultural goods.⁵ This data belies a more extensive problem – given that a large number of cases go undetected, the real scale of cultural goods trafficking is likely much larger.⁶

Cultural goods are often of major cultural, artistic, historical and scientific importance. Therefore, cultural goods **trafficking can have a devastating and irreversible impact on cultural heritage within and beyond the EU**. It destroys parts of our collective memory and deprives humanity of testimonies of its history. Crisis and conflict zones are particularly at risk. This is illustrated for instance in the Near and Middle East (such as in Syria, Iraq or Libya) and most recently in Ukraine.

Tackling this complex, inherently transnational criminal phenomenon requires a **tailor-made response at EU level**, as laid down in the EU Security Union Strategy 2020-2025⁷ and the EU Strategy to Tackle Organised Crime 2021-2025⁸. Therefore, the Commission puts forward an **action plan**. It aims to maximise the potential of existing EU actions, highlight areas that require further efforts and indicate how to address remaining challenges.

2. A complex phenomenon requiring a tailor-made response

The three main illegal activities associated with trafficking in cultural goods are (1.) theft and robbery, (2.) looting (the illicit removal of ancient relics from archaeological sites, buildings or

¹ See for example UN Security Council Resolutions 2199 (2015), 2253 (2015), 2322 (2016), 2347 (2017), 2462 (2019) and 2617 (2021); G20 Culture Ministers Rome Declaration of 30 July 2021.

² In 2021 the “licit” art and antiquities market was valued at USD 65 billion globally, up by 29% compared to 2020, surpassing pre-Covid-pandemic levels; see Clare McAndrew, The Art Market 2022 – An Art Basel & UBS Report.

³ Cf. Europol, 2021 Serious and Organised Crime Threat Assessment.

⁴ Interpol, Assessing Crimes Against Cultural Property 2020, report.

⁵ An operation part of the European Multidisciplinary Platform against Criminal Threats (EMPACT). See <https://www.europol.europa.eu/media-press/newsroom/news/total-of-52-arrests-in-operation-across-28-countries-targeting-trafficking-in-cultural-goods>.

⁶ See European Commission, Illicit trade in cultural goods in Europe - Characteristics, criminal justice responses and an analysis of the applicability of technologies in the combat against the trade, final report, 2019, p. 81, 159, 160.

⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Security Union Strategy, COM/2020/605 final.

⁸ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy to tackle Organised Crime 2021-2025, COM/2021/170 final.

monuments⁹) and (3.) forgery of cultural goods. Related crimes include fraud, disposal of stolen goods (fencing), smuggling, or corruption. Beyond trafficking, criminals can abuse even legally acquired cultural goods, for money laundering, sanctions evasion¹⁰, tax evasion or terrorism financing.

Crimes related to cultural goods have specific features, distinguishing them from other illegal activities. The identity, authenticity, provenience¹¹, provenance¹², and legal status of a cultural good is rarely instantly visible, and often requires specific expertise to be established. Secondly, public and private collections, monuments and excavation sites are vulnerable to theft and looting, especially in conflict and crisis situations. Moreover, unregistered cultural goods, especially from excavation sites or uncatalogued collections, are hard to detect and track once they have become subject to trafficking. Thirdly, the market for cultural goods is subject to certain vulnerabilities attractive to criminals. These include acceptance of anonymity and secrecy¹³, price subjectivity and volatility, and the possibility to use items to store and move considerable amounts of money¹⁴. Criminals also benefit from the general lack of awareness of the harm that trafficking in cultural goods can bring.¹⁵

In addition, criminals have been profiting from the increased availability of online sales channels to expand their customer base on the licit and illicit markets. This poses additional challenges to law enforcement¹⁶, due to the volume of cultural goods to be checked, data encryption and the number of jurisdictions potentially involved.

Furthermore, law enforcement authorities observe a **higher level of sophistication of organised crime groups** active in cultural goods trafficking compared to other types of organized property crimes. Criminals deliberately operate across borders to maximise their profits, blur their trails, hide from apprehension and falsify provenance or provenience of trafficked cultural goods.

Investigations into cultural goods trafficking cases are therefore complex. They require specific expertise on cultural goods, and a high number of authorities to be involved (such as the

⁹ Including pillaging, i.e. looting in war, considered a war crime in customary international humanitarian law. See https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule52.

¹⁰ See for example United States Senate, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, *The Art Industry and U.S. Policies that Undermine Sanctions Staff Report* Permanent Subcommittee on Investigations United States Senate, 2020.

¹¹ In situ location of an object at the date of its archaeological discovery.

¹² The "origin-to-present" chain of custody details of an object.

¹³ Such as use of cash transactions, anonymity of buyers and use of shell companies and free ports.

¹⁴ See for example on the vulnerabilities of the art market to money laundering and terrorism financing, TRACFIN (Traitement du renseignement et action contre les circuits financiers clandestins), *La lettre d'information de TRACFIN*, number 16, June 2018.

¹⁵ See the report quoted in footnote 7, p. 70, 81, 158 - 160.

¹⁶ If not further specified, the term law enforcement authorities as used in this document refers to police, customs, border control and other relevant authorities carrying out tasks for the prevention, investigation, detection or prosecution of criminal offences.

police, customs, border guards, ministries of culture, financial intelligence units, and the judiciary), often involving various jurisdictions due to the cross-border scope of many cases.

3. An EU action plan against Trafficking in Cultural Goods

In line with recommendations for stepping up global action against cultural goods trafficking in various areas¹⁷, this action plan aims to **deter criminals** effectively, to address evolving security threats and **to protect cultural heritage**.¹⁸ The action plan focuses on four strategic objectives, for an effective and comprehensive response:

- I. Improving prevention and detection of crimes by market participants and cultural heritage institutions;
- II. Strengthening law enforcement and judicial capabilities;
- III. Boosting international cooperation;
- IV. Gaining the support of other key stakeholders to protect cultural goods from crime.

The action plan uses a broad definition of cultural goods that includes artefacts of a historical, artistic, scientific, or ethnological interest, as mentioned in the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970 (“UNESCO 1970 Convention”).¹⁹

3.1. Prevention and detection of cultural goods trafficking by market participants and cultural heritage institutions

Cultural goods market participants²⁰, collectors and cultural heritage institutions are well placed to help prevent and detect crime related to cultural goods, since they are at particular risk of encountering trafficked cultural goods or of becoming victims of property crime. It is

¹⁷ See in particular UN Security Council Resolutions 2199 (2015), 2253 (2015), 2322 (2016), 2347 (2017), 2462 (2019) and 2617 (2021), UN General Assembly Resolution A/RES/69/196 (International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences), Report of the Conference of the Parties to the UN Convention against Transnational Organized Crime on its tenth session, UNTOC COP/2020/10 Resolution 10/7, UN Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970, UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects of 1995, G20 Ministers of Culture Rome Declaration of 30 July 2021, Interpol’s report “Assessing Crimes Against Cultural Property 2020”, “The Safety and Security of Cultural Heritage in Zones of War or Instability” published under the North Atlantic Treaty Organisation (NATO) Science for Peace and Security series 2021, Declaration of the UNESCO World Conference on Cultural Policies and Sustainable Development – MONDIACULT 2022.

¹⁸ See also UN General Assembly Resolution A/RES/69/196.

¹⁹ Article 1 of the UNESCO 1970 Convention.

²⁰ Including various participants involved in art market transactions, such as buyers, galleries, auction houses, further cultural goods dealers (including online sales platforms), free ports, art storage facilities, cultural goods experts, businesses involved in the financing of cultural goods transactions, as well as accountants, auditors, tax advisors and legal professionals involved in cultural goods transactions.

essential that these stakeholders are aware of the applicable legislation and other non-legislative tools that aim to prevent and detect such crimes²¹. The Commission is in regular dialogue with cultural heritage institutions, notably through the Cultural Heritage expert group²². The Commission has also cooperated with UNESCO to deepen the understanding of the art market and cultural heritage institutions of due diligence and ethics rules.²³ UNESCO is currently working on a revision of the International Code for Dealers in Cultural Property in order to address the challenges that have arisen since its adoption in 1999, as well as strengthen and clarify the ethical principles that should govern the art market.

As cultural goods trafficking is typically a cross-border crime, EU trade legislation plays an important role in preventing and detecting such cases. The export of cultural goods from the Union customs territory is subject to an export licence requirement, to ensure that exports undergo uniform controls at the EU's external borders.²⁴ The import of cultural goods falls under Regulation (EU) 2019/880. It prohibits importing cultural goods illegally exported from a third country, and subjects the import of certain cultural goods in the Union to requirements for import licences or importer statements. The Regulation also introduces a centralised electronic system to store and exchange information between Member States and to accomplish import formalities by operators. This system will become operational by June 2025²⁵. It is paperless, and will ensure the interconnection between relevant customs, cultural authorities and existing databases. Moreover, it has the potential to reduce cases of document forgery, and eliminates the need to verify the authenticity of paper licences. The Commission is also considering a future extension of this system to export licences under Regulation (EC) 116/2009. Legislation on import and export of

²¹ Art markets and cultural institutions are subject to rules and other norms regarding due diligence, due care or reporting regarding customers, provenance of cultural goods or transactions. These rules and norms stem from market practice, codes of conduct (such as UNESCO's International code of ethics for traders in cultural property or the International Council of Museums Code of Ethics for Museums), case law or legislation (such as Directive (EU) 2015/849 on preventing the use of the financial system for money laundering or terrorist financing as amended by Directive (EU) 2018/843, OJ L 156, 19.6.2018, p. 43–74; Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State, OJ L 159, 28.5.2014, p. 1 – 10, or national requirements to record sales in registers.).

²² <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&do=groupDetail.groupDetail&groupID=3204>.

²³ See for more details: <https://en.unesco.org/fightrafficking/eu-cooperation>.

²⁴ Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods, OJ L 39, 10.2.2009, p. 1 – 7, and Commission Implementing Regulation (EU) No 1081/2012 of 9 November 2012 for the purposes of Council Regulation (EC) No 116/2009 on the export of cultural goods, OJ L 324, 22.11.2012, p. 1–24.

²⁵ See Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019 on the introduction and the import of cultural goods, complemented by Commission Implementing Regulation (EU) 2021/1079 of 24 June 2021. Regarding Syria and Iraq, see Article 3 of Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96 (OJ L 169, 8.7.2003, p. 6–23) and Article 11c of Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria as amended on 13 December 2013 by Regulation 1332/2013, OJ L 16, 19.1.2012, p. 1–32.

cultural goods is complemented by Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a Member State.²⁶

To further streamline implementation of EU import and export legislation, the Commission holds regular exchanges with Member States' customs and cultural affairs authorities through the Expert Group on customs issues related to cultural goods, the Cultural Goods Committee established by Regulation (EC) 116/2009 and Regulation (EU) 2019/880 and the Project Group on the Digitalisation of Cultural Goods.

However, scrutiny and control of trade in cultural goods can vary widely within the single market²⁷. This leaves significant loopholes for criminals to hide their tracks and disguise an item's origin. In line with the UNESCO 1970 Convention²⁸ and as raised by law enforcement stakeholders consulted, measures to increase traceability²⁹ of the transfer of property in cultural goods within the single market could significantly contribute to detect trafficking cases and deter criminals from infiltrating the cultural goods market. Furthermore, establishing provenance for cultural goods falling within the scope of Directive 2014/60/EU would improve the functioning of the return mechanism provided by the Directive itself.³⁰ Many Member States have already implemented sales registers for cultural goods categories. Implementing similar measures throughout the EU would help boost crime prevention and detection in cross-border cases, and would help establish a comprehensive picture of illicit trafficking of cultural goods in the single market. Moreover, the effectiveness of existing sales registers could be improved, for example by ensuring that information is stored digitally and that registers are interconnected.

Steps can also be taken to make public and private cultural goods collections less vulnerable to property crime. Europol³¹ reports that in the EU, many cases of trafficking concern cultural goods stolen from places of worship, cultural heritage institutions, museums, as well as private homes and collections. Public and private collections need to develop awareness of their vulnerabilities to property crime, train their staff in applying protection measures, and invest in protection tools.

Similarly, the owners or managers of public and private collections can take voluntary measures to protect themselves better from property crimes. One key action is to keep up-to-date inventories and databases of collected cultural goods. Such inventories facilitate the identification and search of stolen objects. Even for private collections, there are available tools

²⁶ Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State, OJ L 159, 28.5.2014, p. 1–10.

²⁷ Outside of areas harmonized by EU legislation, such as Directive (EU) 2015/849, Directive 2014/60/EU, or national requirements to record sales in registers.

²⁸ Article 10 (1).

²⁹ On support for increased traceability measures see actions under strategic objective 2.

³⁰ See First report on the application of Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast), COM/2021/705 final, 18 November 2021.

³¹ Cf. Europol, 2021 Serious and Organised Crime Threat Assessment.

recommended by law enforcement authorities, such as the International Council of Museum's (ICOM) Object-ID.³² The reporting of property crime cases to the law enforcement authorities is another means to detect and prevent crimes. This helps ensure that stolen cultural goods appear in national stolen art databases and Interpol's Stolen Works of Art Database. Registering stolen cultural goods increases their visibility, and reduces the possibility for traffickers to find sales channels in the legal economy.

The EU already has specific legislation in place to tackle cultural goods trafficking online.

The Digital Services Act³³ increases the responsibilities of providers of intermediary services, including online platforms that connect consumers with providers of goods and services. The Digital Services Act also regulates the reporting of illegal content, such as on suspicious sales,³⁴ introduces the possibility for public authorities to send cross-border removal orders to providers of intermediary services established in other Member States, and increases traceability obligations for traders. The Commission also supports digitisation and digital preservation of cultural heritage through the common European data space for cultural heritage³⁵ and the upcoming European Collaborative Cloud for Cultural Heritage.

A key component of the fight against cultural goods trafficking is the detection of illicit financial flows. Furthermore, the prevalence of money laundering or terrorism financing with legally acquired cultural goods requires particular attention. Concerns that the arts and antiquities sector may be abused by criminals to launder the proceeds of their crimes have led to calls to extend the EU anti-money laundering and counter-terrorism financing regulatory framework. The Anti-money Laundering Directive³⁶ now applies to art and antiquities market participants, such as galleries and auction houses, which trade or act as intermediaries in the trade of works of art, as

³² Also supported by Interpol's ID-Art App. See <https://www.interpol.int/Crimes/Cultural-heritage-crime/ID-Art-mobile-app>.

³³ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA relevance), OJ L 277, 27.10.2022, p. 1–102.

³⁴ Introducing mechanisms to enable the reporting of suspicious dealings or sales on the internet is listed as guideline 3 (d) in the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, UN General Assembly, A/C3/69/L7.

³⁵ See Commission Recommendation C(2021)7953 of 10 November 2021 on a common European data space for cultural heritage; European Commission, Directorate-General for Research and Innovation, Brunet, P., De Luca, L., Hyvönen, E., et al., Report on a European collaborative cloud for cultural heritage : ex – ante impact assessment, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2777/64014>. For more information about Europeana and the creation of a European Competence Centre for the conservation of cultural heritage (4CH) see <https://www.europeana.eu/en> and <https://www.4ch-project.eu>.

³⁶ See Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance), OJ L 141, 5.6.2015, p. 73–117 amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (Text with EEA relevance), OJ L 156, 19.6.2018, p. 43–74.

well as to free ports for transactions above a certain threshold. Market participants have an obligation to include risk assessments and ‘risk-based’ approaches to the prevention and detection of money laundering and terrorist financing, risk mitigating and risk managing measures, effective customer due diligence and identification of customers and their beneficial owners, and report suspicious transactions and activities to the national Financial Intelligence Units. Moreover, the proposal for a new Anti-money Laundering Regulation³⁷ sets an EU-wide limit of EUR 10 000 for cash payments. This can reduce the attractiveness of the cultural goods market for money laundering.

Public authorities need a sufficient level of understanding of money laundering and terrorism financing risks and vulnerabilities in the cultural goods sector so that they can act accordingly when necessary. To this end, national risk assessments conducted by Member States under the anti-money laundering legislation³⁸ provide the adequate setting. Member States can also issue guidance to relevant private sector entities on how to spot relevant transactions and comply with obligations to prevent money laundering and terrorism financing.³⁹

Finally, the Commission supports the Financial Action Task Force project on money laundering and terrorist financing associated with art, antiquities and other cultural objects. Its objectives include helping countries, competent authorities and the private sector to understand how criminals and terrorists can abuse trade in such objects, and to develop best practices and recommendations to mitigate these risks.⁴⁰ Moreover, the Commission continuously assesses the risks of money laundering and terrorist financing affecting the single market when it relates to cross-border activities. In the context of the supra-national risk assessment⁴¹, the Commission assesses and monitors the specific risks of the art and antiquities market and further related sectors, such as free ports and art storage facilities.⁴²

Key actions

The Commission will:

- Launch a dialogue with the art market, in close cooperation with UNESCO, on the issues related to the protection and trade of cultural goods in the single market, including a High-Level event in 2023;

³⁷ Proposal for a Regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing COM/2021/420 final.

³⁸ See Article 7 of Directive (EU) 2015/849.

³⁹ See Directive (EU) 2015/849.

⁴⁰ For further information: FATF Annual Report 2020-2021, page 32.

⁴¹ See Article 6 of Directive (EU) 2015/849.

⁴² Report from the Commission to the European Parliament and the Council on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities, COM/2022/554 final, 27 October 2022 and the Commission staff working document accompanying that report, SWD/2022/344 final.

- Support exchange of information between cultural heritage professionals and relevant authorities through a series of workshops and peer-learning activities⁴³;
- Explore the **extension of the electronic system** for regulating the import of cultural goods to handle the **export of cultural goods**, through a feasibility study;
- With the aim of helping Member States establish **sales registers** to improve traceability of cultural goods within the single market (including online sales), the Commission will launch a study, and on this basis issue guidance to Member States in 2024;
- Cooperate with the ICOM to promote the ICOM Code of Ethics for Museums, improve capacities and provide trainings to staff **in museums and cultural heritage institutions in several Member States**, in order to better record and protect their collections.

Member States are encouraged to:

- Strengthen effective cooperation and information sharing among **customs authorities** and with the Commission⁴⁴ through the Customs Information System in order to fight cultural goods related fraud;
- Take measures to **ensure that public and private collections duly register their possessions in databases and report property crime** cases to law enforcement, with help from internationally agreed standards and tools (such as the Object ID standard or Interpol’s Stolen Works of Art Database);
- Identify, assess and understand the risks of cultural goods trafficking, money-laundering and terrorism financing as part of their **national risk assessment** under the anti-money laundering legislation, and to adopt adequate measures to mitigate these risks;
- Raise awareness and issue **guidance to the private sector on how best to comply with their obligations to prevent money laundering and terrorism financing** in cooperation with the competent authorities;⁴⁵
- Improve the **cooperation between obliged entities from the art and antiquities market, financial sector and Financial Intelligence Units** by sharing knowledge and training on risks and types of illegal activities related to cultural goods, while taking into account the cooperation possibilities between public and private entities;
- Promote the UNESCO International Code of Ethics for Dealers in Cultural Property and the ICOM Code of Ethics for Museums.

3.2. Strengthen capabilities of law enforcement and the judiciary

Due to the complex nature of cultural goods trafficking, law enforcement and the judiciary face specific challenges. Further action is needed to boost their capacity to handle cases of cultural

⁴³ See Council Resolution on the EU Work Plan for Culture 2023-2026.

⁴⁴ See Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters, OJ L 082, 22/03/1997, p. 1 – 16.

⁴⁵ See in particular Directive (EU) 2015/849.

goods trafficking effectively, in accordance with the authorities' respective tasks and responsibilities under EU and national law.

Currently, the available intelligence picture does not adequately reflect the prevalence of cultural goods trafficking. One of the reasons for the lack of data on cultural goods trafficking is that trafficking cases are not appropriately registered. A major impediment to gathering a comprehensive EU-wide intelligence picture is that there is neither a uniform data collection methodology, nor a uniform categorisation of cultural goods related crimes. To facilitate uniform categorisation, the comprehensive catalogue of cultural property crimes set out in the Council of Europe's Convention on Offences relating to cultural property ("Nicosia Convention")⁴⁶ contains guidance on categories of crimes that Member States' authorities can use.

Public authorities need to have an adequate understanding of the *modus operandi* of criminals, and share information with each other to be able to maximise the use of their resources. Such an understanding should notably cover the regional differences⁴⁷ between traffickers, for instance in terms of organisational set-up, cultural goods at risk, trafficking routes or methods to launder money and falsify the provenance and provenience of goods. This knowledge can facilitate more targeted searches and an effective use of available resources. Operational actions of the European Multidisciplinary Platform Against Criminal Threats (EMPACT) can also contribute to a better understanding of traffickers' practices and the scope of cultural goods trafficking.

Public authorities also need to be aware of intra- and inter-agency⁴⁸ cooperation requirements, as well as cooperation options in a given case. To support public authorities in their capacity building efforts, UNESCO has published the toolkit "Fighting the illicit trafficking of cultural property: a toolkit for European judiciary and law enforcement", developed as part of EU-UNESCO cooperation. The Commission supports UNESCO in translating its toolkit into further languages of relevant countries. Secondly, UNODC has developed a Practical Assistance Tool⁴⁹, to assist in the implementation of the International Guidelines.⁵⁰

Public authorities need specific expertise and tools⁵¹ to detect and investigate trafficking cases. In line with Interpol recommendations, this involves the adequate recording of stolen items

⁴⁶ Council of Europe Convention on Offences relating to Cultural Property, adopted on 3 May 2017 (Council of Europe Treaty Series no. 221).

⁴⁷ Cf. Interpol, Assessing Crimes Against Cultural Property 2020, page 6.

⁴⁸ Intra-agency cooperation can mean for example cooperation within one authority (e.g., between various police units specialized in different forms of crime, or between various regional police units). Inter-agency cooperation means cooperation between different authorities, such as police, customs, judiciary, etc.

⁴⁹ UNODC Practical assistance tool to assist in the implementation of the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences (2016).

⁵⁰ See footnote 18.

⁵¹ Such as Interpol's Stolen Works of Art database and the corresponding ID-Art App, or the Red Lists of the International Council of Museums, describing cultural goods categories at risk of trafficking from various regions of the world.

at national and international level, and competent authorities having the necessary skills, in particular through the creation of specialised units at national level exclusively dedicated to cultural goods trafficking investigations⁵², as stipulated by the UNESCO 1970 Convention. Specialised pools of prosecutors have also proven to be effective in deepening the scope of the investigations. Another important factor is timely access to expertise from art historians, archaeologists or other cultural goods experts, to identify seized cultural goods, determine their authenticity, or quantify the possible damage occurred at sites that have been or risk being looted.

Technology is crucial in supporting law enforcement authorities and in protecting cultural goods from being trafficked. This includes software to register stolen items and detect illegal cultural goods on the market, air surveillance technology to protect sites at risk or online investigation tools, including those based on artificial intelligence. In particular, law enforcement authorities need specific detection tools to effectively tackle the volume of items to be checked in online investigations, for example for systematically scanning the internet for images and other data of cultural goods illegally on sale.

Authorities could also consider broadening the scope of investigations beyond the recovery of the trafficked goods, to encompass the criminal networks and illicit money flows behind the individual trafficking cases. Scoping investigations this way is in line with international recommendations (e.g., Interpol), the EU Organised Crime Strategy 2021-2025 and the EMPACT common horizontal strategic goals. At EU and international level, investigations can be supported by Europol⁵³, the EU border management agency Frontex,⁵⁴ and the European Agency for Criminal Justice Cooperation (Eurojust) in accordance with their respective mandates, or through the involvement of partners such as Interpol, United Nations Office on Drugs and Crime (UNODC) or the World Customs Organization. In addition, cooperation can be set up in the context of other relevant law enforcement and judicial cooperation instruments.⁵⁵ The European Public Prosecutor's Office (EPPO) could investigate and prosecute specific cultural goods trafficking

⁵² See Interpol, Creating a national cultural heritage Unit. The value of a national unit dedicated to fighting crimes against cultural heritage and the illicit traffic of cultural property, January 2019.

⁵³ In particular information exchange via the Secure Information Exchange Network Application (SIENA), hosting of operational meetings, operational support during investigations (including online investigation training in the context of EMPACT's Pandora operations), analytical support, strategic support (e.g., threat assessment), or technical support through the Europol Innovation Lab.

⁵⁴ E.g., the use of Frontex's Eurosur Fusion Services Catalogue for the detection of cross-border crimes.

⁵⁵ Such as EMPACT cooperation, joint investigation teams, use of joint coordination centers (with possible involvement of non-EU countries), including support of Eurojust and the European Judicial Network in criminal matters, possibilities of mutual legal assistance including under Article 6 of Directive 2014/60/EU, European Arrest Warrant, European Investigation Order, cooperation based on Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (OJ L 284, 12.11.2018, p. 22–30), Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders (OJ L 303, 28.11.2018, p. 1–38), cooperation and mutual legal assistance in organised crime investigations based on the UN Convention against Transnational Organized Crime (UNTOC).

related offenses falling within its competence.⁵⁶ The Commission is committed to ensuring the EPPO can effectively exercise its tasks conferred by Regulation (EU) 2017/1939, including by strengthening its cooperation with non-EU countries.

As an inherently cross-border crime, the fight against cultural goods trafficking can be reinforced by better exchanges between national authorities. To improve the exchange of strategic information and best practices, as well as to foster joint efforts in cultural goods trafficking, the Council created the informal network of Member States law enforcement authorities, EU CULTNET, in 2012.⁵⁷ This network has significant potential to support Member States' law enforcement authorities in tackling cultural goods trafficking, in particular through cooperation on projects of common interest and the development of specific measures tailored to the needs of law enforcement authorities. The Commission will continue to work with Member States to facilitate and reinforce law enforcement cooperation via EU CULTNET.

Cultural goods traffickers profit from an uneven criminalisation of relevant offences across the EU. The Council of Europe "Nicosia Convention"⁵⁸ is the only international treaty specifically dealing with the criminalisation of the illicit trafficking of cultural property. Implementing measures stipulated under the convention include criminalisation of theft, unlawful import/exports, illegal excavations, illegal acquisition and placing on the market, as well as falsification of documents. These measures would help disrupt trafficking activities through increased investigations as well as enhanced possibilities to recover and confiscate stolen cultural property. Moreover, in order to disrupt criminal business models, the Commission has recently proposed to step up the EU rules on asset recovery and confiscation⁵⁹ which would require Member States to trace, freeze and confiscate property stemming from trafficking in cultural goods where such trafficking is carried out within the framework of an organised crime group. In addition, the Commission is working on ways to increase criminal accountability of individuals and legal persons involved in the violation of Union restrictive measures.⁶⁰ This would also have an impact

⁵⁶ Trafficking in cultural goods may also result in damage to the Union's financial interests or may be linked with criminal offences affecting such financial interests. The EPPO is competent to investigate and prosecute criminal offences affecting the Union budget as well as, offences that are inextricably linked to them. See Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), OJ L 283, 31.10.2017, p. 1–71.

⁵⁷ Draft Council Resolution on the creation of an informal network of law enforcement authorities and expertise competent in the field of cultural goods (EU CULTNET) of 4 October 2012, 14232/12.

⁵⁸ Council of Europe Convention on Offences relating to Cultural Property, adopted on 3 May 2017 (Council of Europe Treaty Series no. 221).

⁵⁹ Proposal for a Directive of the European Parliament and of the Council on asset recovery and confiscation of 25 May 2022, COM (2022) 245 final.

⁶⁰ See Communication from the Commission to the European Parliament and the Council, Towards a Directive on criminal penalties for the violation of Union restrictive measures, 25 May 2022, COM(2022) 249 final; Council Decision (EU) 2022/2332 of 28 November 2022 on identifying the violation of Union restrictive measures as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union, ST/10287/2022/REV/1, OJ L 308, 29.11.2022, p. 18–2.

on those individuals and legal persons involved in using cultural goods for circumvention of Union restrictive measures.

Key actions

The Commission will:

- Identify and facilitate more uniform categories for data collection with support from Europol, which could lead to EU-wide data collection via EUROSTAT in the future;
- Explore measures for an EU-wide harmonisation and interconnection of Member States' databases of stolen cultural goods – including a linkage to Interpol's Stolen Works of Art Database;
- Continue to fund the development of solutions to **enhance traceability and detection** of cultural goods for their protection from man-made threats (including crime), and to address different aspects of the protection of cultural goods, including traceability measures as well as detection and tracking of trafficked cultural goods⁶¹;
- Add trafficking in cultural goods to the induction course for its standing corps officers for the **detection of cross-border crime** of Frontex;
- Assess existing **digital investigation tools** (including those funded by the Commission) and foster Member States' access to these, with support from Europol's Innovation Lab;
- Conduct a mapping of Member States' national legislation criminalising the illicit trafficking of cultural property and the implementation of the Nicosia Convention;

Member States are encouraged to:

- Set up and duly manage dedicated **national databases** of stolen cultural goods;
- **Report stolen cultural goods** to Interpol via its Stolen Works of Art database;
- **Share information** on cultural goods trafficking cases with Europol and Interpol to improve the intelligence picture;
- Maximise the **potential of EMPACT** for cultural goods trafficking cases, including on investigations on the **criminal networks and illicit money flows involved**;
- Take full advantage of Europol's as well as Eurojust's support and expertise for cross-border law enforcement and judicial cooperation;
- Provide adequate capacity building of national law enforcement and judicial authorities, for example by **setting up and training specialised law enforcement** units and specialised pools of prosecutors, and by providing a **basic training** for police, customs and border guard officers involved in routine checks;

⁶¹ Two calls for proposals were already published under the first work programme of Horizon Europe, one under Cluster 2 "Culture, Creativity and Inclusive Society" (namely HORIZON-CL2-2022-HERITAGE-01-07: Protection of artefacts and cultural goods from anthropogenic threats), the other under Cluster 3 "Civil Security for Society" (namely HORIZON-CL3-2021-FCT-01-08: Fight against trafficking in cultural goods).

- Conclude memoranda of understanding between relevant law enforcement authorities and relevant cultural heritage institutions to ensure the **adequate handling and storage of seized or confiscated cultural goods**;
- **Support the reinforcement and the continuity of the network EU CULTNET** to use its full potential, including by seconding appropriate staff to Europol for that purpose, and by developing common measures such as improving rapid access of law enforcement to the necessary expertise from archaeologists or art historians⁶²;
- Sign, ratify and implement the **Council of Europe “Nicosia Convention”**.⁶³

3.3. Step up international cooperation

An effective fight against cultural goods trafficking requires action beyond the EU’s borders. EU external action includes multilateral and bilateral cooperation, and focuses on measures in source, transit and destination countries outside the EU. Actions include support to protecting cultural heritage and archaeological sites, setting up national cultural goods databases, and capacity building for law enforcement and the judiciary.

The Commission services and the European External Action Service (EEAS) are continuing to support a global response to cultural goods trafficking. They will further incorporate the protection of cultural heritage into the EU’s external action, ranging from crisis and emergency response to development cooperation, international and multilateral cooperation, and within the Common Security and Defence Policy. The Commission services, together with the EEAS, in accordance with their respective tasks and the applicable procedures under EU law, will furthermore continue to strengthen cooperation with international and regional organisations⁶⁴ dedicated to fighting cultural goods trafficking, further encouraging development and adherence to relevant international legal frameworks and standards.

Regarding bilateral or regional cooperation with non-EU countries, the EU has included the protection of cultural goods against trafficking in bilateral cooperation agreements, such as the Partnership Priorities with Egypt,⁶⁵ or the Europe Latin America Programme of Assistance against Transnational Organised Crime (El PacCto). This has resulted in the establishment of new cooperation tools to investigate trafficking in cultural property.⁶⁶ Furthermore, the EU has supported activities related to combatting trafficking in cultural goods in the Western Balkans, and

⁶² Thereby taking into account the work of the EU-funded NETCHER project (NETwork and social platform for Cultural Heritage Enhancing and Rebuilding).

⁶³ See footnote 72.

⁶⁴ Including but not limited to: UNESCO, the Council of Europe, ICOM, WCO, Interpol, UNIDROIT, UNODC, ICCROM (International Centre for the Study of the Preservation and Restoration of Cultural Property) and ALIPH (Alliance Internationale pour la protection du patrimoine dans les zones en conflit).

⁶⁵ See Annex to Recommendation of the EU-Egypt Association Council on the EU-Egypt Partnership Priorities 2021–2027, 16 June 2022.

⁶⁶ See <https://www.elpaccto.eu/en/news/new-cooperation-tools-to-investigate-trafficking-in-cultural-property/>

has provided financial support for cultural heritage protection to source and transit countries of cultural goods trafficking such as Mali, Tunisia, Lebanon, Iraq, Syria, Libya and Yemen.⁶⁷ On capacity building, the Commission also supports partner countries in the field of asset recovery. It finances assistance measures aimed at enhancing cross border cooperation for the tracing, investigation, seizure and confiscation of assets.⁶⁸

The EU also works globally to tackle illicit financial flows related to cultural goods. This is being done through the EU Global Facility on Anti-Money Laundering and Countering the Financing of Terrorism. The Global Facility aims to help countries adapt to Financial Action Task Force standards, which ensure a co-ordinated global response to prevent organised crime, corruption and terrorism. Actions include improving investigations and facilitating cooperation between partner countries' relevant authorities, for example Financial Intelligence Units.

EU action specifically addresses the vulnerability of cultural goods to criminal harm in conflict and crisis regions.⁶⁹ Its progress is monitored by the EEAS, together with the Commission services and the Member States.⁷⁰ This includes an informal task force of experts from the EEAS and relevant Commission services to exchange information and facilitate concrete new actions. Since agents deployed in missions and operations can play a major role in the protection of cultural goods, cultural goods trafficking will be included in the dedicated Common Security and Defence Policy training modules on cultural heritage in conflicts and crises. Another notable example is support of countries at risk of looting by satellite and drone technology via the European Union's Earth observation programme Copernicus.

Russia's war of aggression against Ukraine calls for further action to safeguard Ukrainian cultural goods. The Commission services and the EEAS will continue to support safeguarding cultural goods in Ukraine by various means, including assistance to protect and evacuate cultural goods.⁷¹ To this end, Commission services and the EEAS regularly exchange in a dedicated task force on best practices, lessons learnt and possible new actions. Actions include financial support to protect buildings and collections, as well as support to cultural heritage professionals enabling them to continue their work in Ukraine, in cooperation with the International Alliance for the Protection of Heritage in Conflict Areas.⁷² Furthermore, for the first time, the EU Civil Protection

⁶⁷ For further examples see the European External Action Service's "2022 Report on the progress in the implementation of the "Concept on Cultural Heritage in conflicts and crises. A component for peace and security in European Union's external action" and the dedicated Council Conclusions", 14 September 2022, EEAS (2022) 1556.

⁶⁸ Support is given through the EUROMED Police and EUROMED Justice programmes, led by CEPOL and Eurojust. EUROMED Police aims at enhancing the capacity of the Southern Partner Countries (SPC) to fight serious and organised crime. EUROMED Justice brings together the most relevant stakeholders in the field of criminal justice.

⁶⁹ In line with Council Conclusions on EU Approach to Cultural Heritage in conflicts and crises of 18 June 2021.

⁷⁰ See report mentioned in footnote 67.

⁷¹ Ibid, p. 6 – 8.

⁷² <https://www.aliph-foundation.org/en/actions-country/UA>.

Mechanism has been activated to provide assistance in the field of the protection of cultural heritage.⁷³ The House of Europe II programme, funded by the Neighbourhood, Development and International Cooperation Instrument, will include support to preserve and promote of Ukrainian cultural heritage.

The Commission welcomes Member States' existing support to non-EU source or transit countries, including in conflicts and crises, such as in the Middle East⁷⁴ and Ukraine.

Key actions

The Commission services, in cooperation with the EEAS, and the Member States where appropriate, will:

- Monitor and report on the progress of the **implementation of the Council Conclusions on EU Approach to Cultural Heritage in conflicts and crises**
- Increase support to the **protection of Ukrainian cultural goods from destruction** by supporting evacuation and physical protection of collections;
- Boost third country capabilities for cross-border cooperation and investigations into money laundering related to cultural goods, notably by extending the scope of the EU Global Facility on **Anti-Money Laundering to cover Asia and Latin America**.

3.4. Increase protection of cultural goods from trafficking by maximising stakeholder support

Consultations with stakeholders, including UNESCO and UNODC, have shown that there is limited public awareness of the harm that trafficking in cultural goods can bring. It is vital to generate awareness of the importance of cultural heritage and the damage done by the illicit trade in cultural goods beyond the law enforcement and cultural heritage communities. Target audiences include potential buyers of cultural goods, young people, journalists, individuals or entities able to influence public opinion on cultural goods, as well as communities in source countries that can influence the way local cultural goods are preserved and protected.

To this end, the Commission supports several awareness raising projects. To raise awareness about cultural heritage protection in Ukraine, the Commission supports the **#ArtvsWar campaign**. Furthermore, the Commission works together with UNESCO and supports their campaign on 'the Real Price of Art', to raise awareness of potential buyers to the impact of trafficking on cultural

⁷³ https://civil-protection-humanitarian-aid.ec.europa.eu/where/europe/ukraine_en.

⁷⁴ For cooperation with countries in the Middle and Near East, action can also be built upon the results of the EU-funded "El HIWAR II" training and study on the protection of cultural heritage and fight against cultural goods trafficking in Egypt, Jordan and Lebanon.

heritage. In order to reach a wider audience, the Commission supports the **creation of teaching material** on the protection of cultural heritage,⁷⁵ and its EU-wide promotion via the School Education gateway. The EU also supports the involvement of youth. For example, the European Students' Association for Cultural Heritage, established on the occasion of the European Year of Cultural Heritage 2018, is part of a network project supported by the Creative Europe Programme "European Cultural Heritage Agora: Empowering Europe's Civil Society Movement for Heritage".

Key actions

The Commission services, in cooperation with the EEAS where appropriate, will:

- Provide financial support to the ICOM, to upgrade the **ICOM Observatory**, which centralises and disseminates various instruments and materials for international public understanding and policy orientation to protect cultural goods;
- Support UNESCO in creating a **manual for journalists** on reporting on cultural heritage related crimes;
- Support **youth engagement initiatives** via the Creative Europe, the EU Solidarity Corps, **and** the Erasmus+ ;
- Engage in a **dialogue with relevant youth organisations** in order to promote awareness on the need to protect cultural heritage from destruction, theft and looting.

4. Conclusion

Cultural goods trafficking is not a victimless crime: it not only fuels activities that threaten the safety of EU citizens, but can also cause irreparable damage to our cultural heritage and therefore, our common identity. This is why fighting trafficking of cultural goods requires additional common and sustained efforts from a large range of stakeholders within and beyond the EU. This action plan provides a comprehensive framework for the EU and the Member States to advance prevention, detection and criminal justice response to cultural goods trafficking and related crimes. The Commission calls on the European Parliament and the Council to endorse this action plan and support its implementation.

⁷⁵ For example through PITCHER (Preventing Illicit Trafficking of Cultural Heritage: Educational Resources), <https://www.pitcher-project.eu/>.