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### **Illicit trade in cultural goods** **(Regulation EU 116/2009 and Directive 2014/60/EU)**

*This briefing is one in a series of 'Implementation Appraisals', produced by the European Parliamentary Research Service (EPRS), on the operation of existing EU legislation in practice. Each appraisal focuses on a specific EU law that has been earmarked for amendment or review by the European Commission's annual work programme. 'Implementation Appraisals' aim at providing a succinct overview of publicly available material on the implementation, application and effectiveness to date of an EU law, drawing on input from EU institutions and bodies, as well as external organisations. They are prepared by the EPRS Ex-Post Evaluation Unit to assist parliamentary committees in their consideration of new European Commission proposals, once tabled.*

#### **Summary**

Illicit trade (or trafficking) in cultural goods is defined by the European Commission as the 'illicit import, export and transfer of ownership of cultural property, i.e. items being of importance for archaeology, prehistory, history, literature, art or science' and is characterised as ranging 'from theft from cultural heritage institutions or private collections, through looting of archaeological sites to the displacement of artefacts due to war'.<sup>1</sup>

The European Commission points out that trafficking in cultural goods 'fosters terrorism, money laundering, tax evasion, and organised crime' and that 'Europe, where art and culture are highly prized and where many wealthy buyers can be found, is a favourite outlet for trafficking'.<sup>2</sup> Cultural goods have a significant economic value in the market and the trafficking of cultural goods and antiquities is estimated to be worth between US\$50 million and US\$150 million a year.<sup>3</sup>

The European Union does not have common rules on the import of cultural goods. Two EU acts govern only selected areas: Regulation (EU) 116/2009 lays down rules on the export of cultural goods, and Directive 2014/60/EU governs the return of cultural objects taken unlawfully from another EU country. Furthermore, most Member States impose restrictions on imports of culture goods (e.g. requiring declarations or controls) in line with Articles 34 and 35 of Treaty on the Functioning of the European Union (TFEU).

On 13 July 2017 the European Commission tabled a proposal for a regulation on the import of cultural goods, which will set out conditions and procedure for the entry of cultural goods into the customs territory of the EU.<sup>4</sup> The Commission is also preparing a study on illicit trade in cultural goods in the EU and the new technologies available to combat it.<sup>5</sup>

<sup>1</sup> The European Commission's portal on the [fight against trafficking of cultural goods](#).

<sup>2</sup> [Inception impact assessment on the import of cultural goods](#), European Commission.

<sup>3</sup> Tender for a study on 'Improving knowledge about illicit trade in cultural goods in the EU, and the new technologies available to combat it', reference number [EAC/06/2017](#).

<sup>4</sup> [Proposal for a regulation of the European Parliament and of the Council on the import of cultural goods](#), COM(2017) 375 final.

<sup>5</sup> [EAC/06/2017](#).

# 1. Background

Cultural goods and cultural heritage have irreplaceable cultural, social, environmental and economic value and are essential for people's identity and memory, as well as for creating a sense of belonging to a community. Cultural heritage as a non-renewable resource that is unique, non-replaceable or non-interchangeable is currently confronted with serious challenges relating to cultural, environmental, social, economic and technological transformations that are affecting all aspects of contemporary life.<sup>6</sup>

Cultural heritage plays a special role in achieving the Europe 2020 strategy goals for 'smart, sustainable and inclusive growth', since its social and economic impact contributes to environmental sustainability. It cuts across several public policies beyond the strictly cultural domain, such as regional development, social cohesion, agriculture, maritime affairs, environment, tourism, education, the digital agenda, research and innovation. These policies have a direct or indirect impact on cultural heritage and cultural heritage offers strong potential for the achievement of their objectives.<sup>7</sup> The 2015 '[Cultural Heritage Counts for Europe](#)' report shows that an estimated 300 000 people work directly in the EU's cultural sector and as many as 7.8 million jobs are created indirectly by this sector.<sup>8</sup> Additionally, studies show that investing €1 in culture gives a return of more than €20.<sup>9</sup>

Article 167 of the Treaty on the Functioning of the European Union (TFEU) states that the EU 'shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common heritage to the fore'. This has been translated, inter alia, into the [Work Plan for Culture \(2015–2018\)](#), which was adopted by EU's culture ministers in December 2014 and sets out the main priorities for European cooperation in cultural policy-making: inclusive and accessible culture, the promotion of cultural heritage, support for the flowering of the cultural and creative sectors, and promotion of cultural diversity and of culture in the EU's external relations.

Prior to that, cultural heritage was highlighted as an EU priority with the 2007 Council resolution on a [European Agenda for Culture](#).<sup>10</sup> This agenda includes a specific objective as regards culture as a vital element of international relations, promoting the [UNESCO Convention](#) on the protection and promotion of the diversity of cultural expressions 2005<sup>11</sup> and contributing to its implementation at international level.

[Horizon 2020](#), the EU's framework programme for research and innovation, reinforces the EU's position in the field of preserving, restoring and promoting cultural heritage, supporting cooperation among researchers across a broad range of themes. Through Horizon 2020, the EU supports the application of cutting-edge science to heritage protection; the development of more inclusive interpretations of the past; and new methods of dissemination and knowledge sharing.<sup>12</sup>

- In 2013, 26 % of EU travellers indicated that cultural heritage was a key factor in choosing a travel destination; and
- 52 % of EU citizens had visited at least one historical monument or site and 37 % a museum or gallery in their respective countries, while 19 % visited a historical monument or site in another EU country.

Source: [Attitudes of Europeans towards tourism](#), Eurobarometer, March 2013.

The conservation, promotion and management of cultural heritage is currently supported under the EU's Structural and Investment Funds (ESIF). Between 2007 and 2013, the European Regional Development Fund allocated €3.2 billion to protect and preserve cultural heritage, €2.2 billion to develop cultural infrastructure and €553 million to boost cultural services, which also benefited cultural heritage.<sup>13</sup> For the 2014 to 2020

<sup>6</sup> See [Council conclusions of 21 May 2014](#) on cultural heritage as a strategic resource for a sustainable Europe, 2014.

<sup>7</sup> [Council conclusions of 21 May 2014](#), p. 1.

<sup>8</sup> 'Cultural Heritage Counts for Europe' by Europa Nostra, co-funded by the Culture Programme of the European Union, June 2015, p. 153-154.

<sup>9</sup> [European Year of Cultural Heritage 2018: why it is important](#), European Parliament.

<sup>10</sup> Resolution of the Council of 16 November 2007, OJ C 287, 29.11.2007, p. 1.

<sup>11</sup> [Convention on the protection and promotion of the diversity of cultural expressions](#), adopted in Paris, 20 October 2005.

<sup>12</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: [Towards an integrated approach to cultural heritage for Europe](#), COM(2014) 477 final.

<sup>13</sup> [Mapping of Cultural Heritage actions in European Union policies, programmes and activities](#), European Commission, 2014.

period, ESIF investments in heritage will remain eligible, under certain conditions, through direct funding, but also through investment in urban regeneration, sustainable development and support for small and medium-sized enterprises.<sup>14</sup>

[Regulation 116/2009](#) on the export of cultural goods<sup>15</sup> includes the presentation of an export licence for the export of cultural goods outside the customs territory of the EU, as a measure to ensure that exports of cultural goods are subject to uniform controls at the Union's external borders.

[Directive 2014/60/EU](#) on the return of cultural objects unlawfully removed from the territory of a Member State<sup>16</sup> covers objects of historical, paleontological, ethnographic and numismatic interest or scientific value, whether or not they form part of public or other collections or are single items, and whether or not they originate from regular or clandestine excavations, provided that they are classified or defined as national treasures. Furthermore, cultural objects classified or defined as national treasures should no longer have to belong to categories or comply with thresholds related to their age and/or financial value in order to qualify for return under this directive.

2008		
Exports	Imports	Balance
10 535	12 603	-2 068
2015		
Exports	Imports	Balance
14 926	12 140	2 786

Source: [International trade in cultural goods](#), Eurostat, January 2017.

## 2. EU-level reports, evaluations, studies and legislative proposals

In July 2014 the Commission adopted the communication, [Towards an integrated approach to cultural heritage for Europe](#).<sup>17</sup> The communication points out that trafficking of cultural artefacts remains a difficult challenge requiring action at European and international level.<sup>18</sup> While policies for maintenance, restoration, accessibility and exploitation of cultural heritage are primarily national or local responsibilities, cultural heritage is addressed directly in several EU policies, including those relating to culture, environment, research and innovation, education, regional development and customs cooperation.<sup>19</sup>

In its section on cultural heritage in EU external relations, the communication highlights that 'there is a growing global demand for European expertise in heritage and that many Member States are willing to share their know-how to protect sites and to help partner countries develop sustainable, community-based strategies'. Cooperation in fighting the illicit traffic of cultural goods and the protection of national archives are therefore two fundamental aspects where efforts need to be stepped up. Heritage-related topics are addressed as part of cooperation with Africa, Asia-Europe Meeting (ASEM), with strategic partners such as China, India and Brazil, and with the European Neighbourhood Policy countries. In 2011-2013, EU development aid for the heritage sector exceeded €70 million in the Mediterranean region.<sup>20</sup>

The 2015 report by the Horizon 2020 Expert Group on Cultural Heritage [Getting cultural heritage to work for Europe](#) argues that cultural heritage is 'a significant force for 21st century Europe' and lies 'at the heart of what it means to be European'. It also provides a means of improving economic performance, people's lives and living environments and is regarded as a positive contributor to European gross domestic product (GDP). Cultural heritage brings economic benefits to the tourism sector, but can be also seen as an innovative stimulant for growth and employment in a wide range of traditional and new industries.<sup>21</sup>

Most recently, the 2016 [Action plan to strengthen the fight against terrorist financing](#)<sup>22</sup> recognised that terrorist groups use illicit excavations of archaeological sites to obtain cultural goods as a source of income.

<sup>14</sup> COM(2014) 477 final.

<sup>15</sup> OJ L 39, 10.02.2009, p. 1.

<sup>16</sup> OJ L 159, 28.05.2014, p. 1.

<sup>17</sup> COM(2014) 477 final.

<sup>18</sup> COM(2014) 477 final, p. 5.

<sup>19</sup> COM(2014) 477 final, p. 6.

<sup>20</sup> COM(2014) 477 final, p. 12.

<sup>21</sup> Report of the Horizon 2020 Expert Group on Cultural Heritage, European Commission, June 2015, p. 5.

<sup>22</sup> [IPJ/16/202](#), 2 February 2016.

For this reason, the Commission intends to table a legislative proposal to reinforce the powers of customs authorities to address terrorism financing through trade in goods by, inter alia, tackling illegal gains made through dissimulation of trade transactions, misrepresentation of the value of goods and fictitious invoicing.

As announced in the 2016 joint communication [Towards an EU strategy for international cultural relations](#),<sup>23</sup> the European Commission intends to regulate the import into the EU of cultural goods, based on the results of a recently launched study to identify gaps in national legislation and on scrutiny of legislation at EU level. On 13 July 2017 the Commission tabled [proposal for a regulation on the import of cultural goods](#), which will set out conditions and procedure for the entry of cultural goods into the customs territory of the EU. The Commission explained that the regulation would 'addresses the problem of cultural goods from third countries illegally taken from their historical and archaeological context being brought in to the EU, thereby fostering organised crime, terrorism financing, money laundering and tax evasion as well loss of cultural identity and heritage to source countries'.<sup>24</sup> The regulation follows up on EU legislation prohibiting trade in cultural goods from Iraq and Syria (Regulations [1210/2003](#) and [36/2012](#)), the 2015 [European Agenda on Security](#)<sup>25</sup> and the 2016 [Action Plan to step up the fight against the financing of terrorism](#).<sup>26</sup>

### 3. European Parliament position / MEPs' questions

#### 3.1. European Parliament resolutions

##### European Parliament [resolution of 30 April 2015](#) on the destruction of cultural sites perpetrated by ISIS/Da'esh

The resolution<sup>27</sup> indicates that illicit trade in cultural goods is now the third most significant illegal trade after drugs and arms. This illicit trade is dominated by organised criminal networks and current national and international mechanisms are neither adequately equipped nor properly supported to tackle the issue.<sup>28</sup> The resolution suggests that the Commission<sup>29</sup> focus on the fight against illicit trade in cultural artefacts. Moreover, Parliament calls on the Commission to devise a coordinated approach to combating that illegal trade, working together with those responsible at national level in the investigation services and in close cooperation with UNESCO and other international organisations. Furthermore, the European Parliament calls on those Member States that have not already done so to ratify the [1970 UNESCO Convention](#) on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, the [1995 UNIDROIT Convention](#), the [1954 Hague Convention](#) for the protection of cultural property in the event of armed conflict, and its [second protocol](#) of 1999.

##### European Parliament [resolution of 8 September 2015](#) towards an integrated approach to cultural heritage for Europe

This resolution<sup>30</sup> points out that cultural tourism, which accounts for 40 % of European tourism, is a key economic sector in terms of potential for growth and employment. The European Parliament calls on the Commission to improve its coordination of and support for Member States' efforts to fight the theft and illegal trafficking of cultural heritage assets inside and outside the EU and asks for the return of cultural objects unlawfully removed from the territory of a Member State.<sup>31</sup> In addition, Parliament points to the

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<sup>23</sup> Joint communication to the European Parliament and the Council, [Towards an EU strategy for international cultural relations](#), JOIN(2016) 29 final.

<sup>24</sup> Commission staff working document. [Executive summary of the impact assessment](#) accompanying the document. Proposal for a regulation of the European Parliament and of the Council on the import of cultural goods, SWD(2017) 263 final.

<sup>25</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. [The European Agenda on Security](#), COM(2015) 185 final.

<sup>26</sup> Communication from the Commission to the European Parliament and the Council on an [Action Plan for strengthening the fight against terrorist financing](#), COM(2016) 50 final.

<sup>27</sup> P8\_TA(2015)0179.

<sup>28</sup> [Morocco - Africa-EU workshop on the fight against illegal trafficking of cultural goods](#).

<sup>29</sup> In line with paragraph 17 of UN Security Council Resolution 2199 of 12 February 2015.

<sup>30</sup> P8\_TA(2015)0293.

<sup>31</sup> P8\_TA(2015)0293, Point 69.

potential afforded by interdisciplinary research projects with regard to preserving cultural heritage involving Member States and non-EU countries.<sup>32</sup>

Furthermore, Parliament calls for a strong commitment on the part of Member States, the EU and the international community to prevent, protect, document and restore cultural goods in cases where EU cultural heritage or that of non-Member States is intentionally threatened. It encourages the adoption of international agreements to prevent illicit trafficking of cultural heritage. In addition, Parliament highlights the need for the EU, together with the UN and UNESCO, to defend heritage in danger and fight the looting of cultural objects in conflict areas.<sup>33</sup>

### 3.2. European Parliament legislative initiative

The European Parliament has launched a legislative initiative procedure [2017/2023\(INL\)](#) 'Cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars', which is awaiting the decision of the Legal Affairs Committee.

A study prepared for the committee, in first sentences states, that 'armed conflicts, whether international or intrastate, pose multiple threats to cultural heritage. The looting of art is one of them'. The study recommends, inter alia, the uniformity of solutions to ensure legal certainty in cases relating to the restitution of art looted in armed conflicts and to set up at the EU level a body in charge with proposing long term solutions and/or giving expert advice in specific cases.<sup>34</sup>

### 3.3. MEPs' written questions

#### [Written question by Ivan Jakovčić \(ALDE, Croatia\), 17 July 2015](#)

The Member inquired about what actions Europe was taking to counteract the illegal trade in cultural goods and in particular to control the financial flows that supported the financing of terrorist organisations.

#### [Answer given by Federica Mogherini on behalf of the Commission, 15 October 2015](#)

The Commission Vice-President replied that the EU was taking steps in accordance with UNSCR 2199 to prevent the illegal trade of cultural property, given that such trafficking of cultural artefacts contributed directly to the financing of ISIL/Da'esh and other terrorist organisations. She explained that the EU helped document and protect the heritage of Syria and Iraq and was supporting the efforts of both international and local partners to safeguard as much as possible of the two countries' cultural and religious heritage, and to return all stolen items that were recovered to those countries, in accordance with Article 11(c) of [Regulation 36/2012](#) of 18 January 2012 concerning restrictive measures in view of the situation in Syria.

#### [Written question by Pablo Iglesias \(GUE/NGL, Spain\), 10 June 2015](#)

The Member asked when the EU would implement the appropriate mechanisms to initiate the fight against the illegal trade in cultural goods coming from Syria, taking into consideration the occupation of Palmyra by Da'esh, the [EEAS statement](#) that the EU had taken all the appropriate steps to prevent the illegal trade of cultural property, and the European Parliament resolution tackling the issue of the illegal trade in cultural property and the traffic in cultural artefacts.

#### [Written question by Doru-Claudian Frunzulică \(S&D, Romania\), 29 May 2015](#)

Taking into consideration the situation in Palmyra, the Member inquired whether the Commission had any information on the current situation in Palmyra and the fate of the archaeological treasures there.

#### [Answer to both questions given by Federica Mogherini on behalf of the Commission, 29 September 2015](#)

The Commission Vice-President noted that Da'esh's deliberate destruction of archaeological and cultural heritage in Palmyra, as well as other places in Syria and Iraq, might amount to a war crime, according to the Rome Statute of the International Criminal Court. The Council had adopted regulations banning imports of cultural goods coming from Syria ([Regulation 1332/2013](#)) and Iraq ([Regulation 1210/2003](#)). In addition, the

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<sup>32</sup> P8\_TA(2015)0293, Point 70.

<sup>33</sup> P8\_TA(2015)0293, Point 72.

<sup>34</sup> [Cross-border restitution claims of art looted in armed conflicts and wars and alternatives to court litigations](#), European Parliament, Directorate General for Internal Policies, 2016, p. 6 and 44.

EU was providing financial support for the UNESCO-run action plan for cultural heritage in Syria. Since 2014, the EU had devoted €2.5 million for the funding of the project. An expert team based in Beirut was monitoring the situation, fighting against illicit trafficking and raising awareness among authorities, locals and the Syrian refugees. The [Council framework decision 2008/841/JHA on the fight against organised crime](#)<sup>35</sup> established the definitions of offences for participating in a criminal organisation and provided for corresponding penalties on natural or legal persons. Europol was supporting the ongoing investigations, facilitating the exchange of information about offences committed, and stolen and sought-after cultural property. Member States were also encouraged to use Interpol's dedicated stolen works of art database, and to cooperate with its special unit dedicated to the fight against the illicit trafficking of cultural goods. The EU also funded the [International Observatory on Illicit Traffic in Cultural Goods](#), designed by the International Council of Museums (ICOM). ICOM had produced emergency red lists of Iraqi and Syrian antiquities at risk, designed as tools for museums, customs officials, police officers, art dealers and collectors.

**[Written question by Theodoros Zagorakis \(EPP, Greece\)](#), 30 April 2015**

The Member inquired how the EU could help to reduce the trafficking of cultural goods of questionable legal provenance by auction houses. The Member also asked if alternative forms of resolving such disputes could be provided, given the very significant cost of legal action for Member States.

**[Answer given by Elżbieta Bieńkowska on behalf of the Commission](#), 31 August 2015**

The Commissioner replied that [Directive 2014/60/EU](#) guaranteed the right of Member States to secure the physical return of unlawfully removed cultural objects and was designed to contribute to reducing the cost of returns. In particular, it facilitated the resolution of disputes and amicable out-of-court returns through administrative cooperation between national authorities. It also established an obligation for the possessor to prove the exercise of due care and attention in acquiring the cultural object and allowed for compensation in the event that the return of the cultural object was ordered. The directive set out non-exhaustive criteria to be taken into account by the court so as to facilitate the interpretation of due care and attention.

## 4. Council of the European Union

In 2014, the Council of the European Union highlighted the social and economic benefits of heritage policies in its [conclusions on cultural heritage as a strategic resource for a sustainable Europe](#).<sup>36</sup> The Council of the European Union called on the Member States to enhance cross-border, interregional and transnational cooperation on cultural heritage issues with relevant stakeholders. Furthermore, the conclusions called on the Member States to foster the knowledge and skills necessary for the safeguarding, sustainable management and development of cultural heritage and to be handed down to future generations, so as to improve human capital and ensure the continuous protection of and access to Europe's cultural assets.<sup>37</sup>

The idea of a European Year of Cultural Heritage was raised for the first time in 2014 when the Council of the European Union referred to it in its [conclusions on the participatory governance of cultural heritage](#).<sup>38</sup> The idea received strong support from the European Parliament and the Commission presented its proposal for a European Year of Cultural Heritage in August 2016.<sup>39</sup> On 17 April 2017, Parliament voted on making 2018 the [European Year of Cultural Heritage](#).<sup>40</sup> One of the specific objectives of the European Year is to encourage synergies between the Union and the Member States, including initiatives to prevent the traffic of cultural goods.<sup>41</sup>

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<sup>35</sup> OJ L 300, 11.11.2008, p. 42.

<sup>36</sup> [Council conclusions of 21 May 2014](#) on cultural heritage as a strategic resource for a sustainable Europe, 2014.

<sup>37</sup> [Council conclusions of 21 May 2014](#), Points 23 and 24.

<sup>38</sup> OJ C 463, 23.12.2014, p. 1.

<sup>39</sup> [COM\(2016\) 543](#) final, 31.08.2016.

<sup>40</sup> [Decision \(EU\) 2017/864 of the European Parliament and of the Council on a European Year of Cultural Heritage](#) (2018), OJ L 131, 20.5.2017.

<sup>41</sup> According to Article 2(2)(m) of [Decision 2017/864/EU](#).

## 5. Committee of the Regions (CoR)

[Opinion 2015/C 195/04](#) of the European Committee of the Regions (CoR) – Towards an integrated approach to cultural heritage for Europe<sup>42</sup> – indicated that conservation of heritage, its development and steps to guarantee its long-term future were a vocation, a responsibility and a shared goal.

The Committee welcomed the introduction of the Internal Market Information System (IMI),<sup>43</sup> and looked forward to the establishment of an IMI system module specifically customised for cultural objects, which should facilitate the implementation of [Directive 2014/60/EU](#) on the return of cultural objects.<sup>44</sup> The Committee of the Regions also stressed the need for closer cooperation on combating the illicit trade in cultural goods and objects. It therefore urged the Member States to ratify the 1970 UNESCO Convention and the 1995 UNIDROIT Convention, and to ensure that they were enforced in practice by making appropriate changes to national laws and through tighter police and customs controls at EU borders.<sup>45</sup>

## 6. Other EU institutions

Eurojust (Judicial Cooperation Unit of the European Union), Europol (European Police Office) and CEPOL (European Police College) contribute to the coordination of investigations, criminal prosecutions and the exchange of information between Member States. The main role of [Eurojust](#) is to provide the national authorities of the EU Member States who are conducting investigations and/or prosecutions with support and assistance in cases of serious cross-border crime. This extended scope of action is extremely useful in cases of criminal organisations involved in the illegal trafficking of cultural goods and other criminal offences. [Europol](#) works to help Member States prevent and investigate a wide range of crimes, one area being the illicit trafficking of cultural goods, including antiquities and works of art. According to the 2017 [European Union Serious and Organised Crime Threat Assessment](#) (SOCTA 2017),<sup>46</sup> organised property crime covers a wide range of criminal activities, carried out mainly by mobile organised criminal groups operating across the EU. The trafficking of cultural goods falls into this broad category of criminal activities.

## 7. European Commission public consultation

The European Commission ran a [public consultation](#) on the adoption of customs rules governing the import of cultural goods into EU territory, from October 2016 to January 2017. 305 contributions were received within the deadline, and more within a week of the deadline; all were considered by the Commission.

A synopsis report<sup>47</sup> showed that there was no agreement on what action should be taken at EU level. Around 55 % of citizens were in favour of adopting customs rules for imports and 30 % were against. Meanwhile, more than 80 % of companies were against and more than 90 % of NGOs and civil society organisations were in favour. The question on the contribution of EU anti-trafficking measures in the fight against organised crime and terrorist financing brought mixed opinions: 32 % of citizens were for the idea and around 30 % against; around 70 % of companies did not believe in the effectiveness of such measures, while around 90 % of both NGOs and civil society organisations, and also public authorities, were in favour.

## 8. Petitions

**Petition 0076/2012** on the compatibility of Article 30 TFEU with Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods.

The European Commission considered that national regimes regulating the export of cultural goods should be assessed on a case by case basis taking due account of the principle of proportionality. It is ultimately up to the Court of Justice of the European Union to declare whether national legislation protecting cultural goods was legitimate in the light of Articles 35 and 36 TFEU. The Commission could only observe that the

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<sup>42</sup> OJ C 195, 12.6.2015, p. 22.

<sup>43</sup> Established by [Regulation \(EU\) No 1024/2012](#) (OJ L 316, 14.11.2012, p. 1).

<sup>44</sup> Point 8 of the CoR opinion.

<sup>45</sup> Point 48 of the CoR opinion.

<sup>46</sup> Europol, p. 47.

<sup>47</sup> [Synopsis Report of Open Public Consultation for the proposal on the import of cultural goods](#), European Commission, 2017.

problem encountered by the petitioner could result from the incorrect application of national provisions that may themselves comply with EU law, since it appeared from the petition that other companies established in the same Member State were not obliged to obtain a permit for the export of similar items.

## 9. Other sources of reference

- [Council conclusions](#) on preventing and combating crime against cultural goods, 13 and 14 December 2011.
- [Fourth 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.<sup>48</sup>

<b>EP committee responsible at time of adoption of the EU legislation:</b> Committee on Culture and Education and Committee on Legal Affairs. <sup>49</sup>
<b>Date of adoption of original legislation in plenary:</b> - 18 December 2008 ( <a href="#">Regulation (EU) 116/2009</a> ) <sup>50</sup> - 15 May 2014 ( <a href="#">Directive 2014/60/EU</a> ) <sup>51</sup>
<b>Deadline for transposition of legislation and entry into force of original legislation:</b> - 18 December 2015 (Directive 2014/60/EU, Article 19(1))
<b>Planned date for review of legislation:</b> - Every three years the Commission is obliged to produce a report on the implementation of Regulation (EU) 116/2009 (Article 10(2)). - Every five years the Commission shall present a report reviewing the application and effectiveness of Directive 2014/60/EU (Article 17(2)).
<b>Timeline for new amending legislation:</b> - On 13 July 2017, the European Commission tabled a proposal for a regulation on the import of cultural goods. <sup>52</sup>

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<sup>48</sup> COM(2013) 310 final, 30.5.2013.

<sup>49</sup> In accordance with Annex V, XV.1(c) and V. XVI.1 of the [Rules of Procedure of the European Parliament](#).

<sup>50</sup> OJ L 39, 10.02.2009, p. 1.

<sup>51</sup> OJ L 159, 28.05.2014, p. 7.

<sup>52</sup> [COM\(2017\) 375 final](#), 13.7.2017.