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REPORT

on cross-border restitution claims of works of art and cultural goods looted in
armed conflicts and wars
(2017/2023(INI))

Committee on Legal Affairs

Rapporteur: Pavel Svoboda

Rapporteur for the opinion (*):
Nikolaos Chountis, Committee on Culture and Education

(*) Associated committee – Rule 54 of the Rules of Procedure

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars (2017/2023(INI))

The European Parliament,

- having regard to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and the second protocol thereto of March 1999,
- having regard to its resolution of 14 December 1995 on the return of plundered property to Jewish communities¹ and of 16 July 1998 on the restitution of property belonging to Holocaust victims²,
- having regard to the package of measures adopted in December 2016 to strengthen the EU's capacity to fight the financing of terrorism and organised crime, delivering on the commitments made in the Action Plan against terrorist financing of 2 February 2016 (COM(2016)0050), and to its proposal for a regulation on the import of cultural goods (COM(2017)0375),
- having regard to its resolution of 30 April 2015 on the destruction of cultural sites perpetrated by ISIS/Daesh³,
- having regard to the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects of 24 June 1995,
- having regard to 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 State⁴,
- having regard to Article 1 of Protocol 1 to the European Convention on Human Rights,
- having regard to Article 17 of the Charter of Fundamental Rights of the European Union,
- having regard to Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods⁵,
- having regard to Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters⁶, and in particular Article 7(4) thereof,
- having regard to its resolution of 17 December 2003 on a legal framework for free movement within the internal market of goods whose ownership is likely to be

¹ OJ C 17, 22.1.1996, p. 199.

² OJ C 292, 21.9.1998, p. 166.

³ OJ C 346, 21.9.2016, p. 55.

⁴ OJ L 159, 28.5.2014, p. 1.

⁵ OJ L 39, 10.2.2009, p. 1.

⁶ OJ L 351, 20.12.2012, p. 1.

contested¹,

- having regard to the 2016 study by its Directorate-General for Internal Policies on ‘Cross-border restitution claims of art looted in armed conflicts and wars and alternatives to court litigation’,
 - having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)²,
 - having regard to the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970,
 - having regard to Council Resolution 14232/12 of 4 October 2012 on the creation of an informal network of law enforcement authorities and expertise competent in the field of cultural goods (EU CULTNET),
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Culture and Education (A8-0465/2018),
- A. whereas, according to Interpol, the black market for works of art is becoming as lucrative as those for drugs, weapons and counterfeit goods;
- B. whereas, according to the impact assessment of the Commission proposal for a regulation of the European Parliament and of the Council on the import of cultural goods (COM(2017)0375), 80 to 90 % of global antiquities sales are of goods of illicit origin;
- C. whereas cultural heritage constitutes one of the basic elements of civilisation, given, for example, its symbolic value and cultural memory of humankind uniting people; whereas in recent years a string of crimes against world cultural heritage have been perpetrated by warring factions and terrorist entities all over the world, and whereas valuable artworks, sculptures and archaeological artefacts are being sold and imported into the EU from certain non-EU countries, with the profits potentially being used to finance terrorist activities; whereas it is essential to make a firm commitment against illicit trafficking in cultural goods such as works of art plundered during the armed conflicts and wars in Libya, Syria and Iraq; whereas cultural goods are of major cultural, artistic, historical and scientific importance and must be protected from unlawful appropriation and pillage;
- D. whereas soon after the end of the Second World War, attempts were made to find and return looted property to its country of origin;
- E. whereas the restitution of objects traded and/or excavated or obtained illegally must be

¹ OJ C 91E, 15.4.2004, p. 500.

² OJ L 119, 4.5.2016, p. 1.

ensured with regard to the EU's commitment to fair processes and victim compensation, as well as the UNESCO constitution and conventions on heritage protection;

- F. whereas the Washington Conference Principles on Nazi-Confiscated Art, the Vilnius Forum and the Terezin Declaration on Holocaust Era Assets and Related Issues have all emphasised the importance of providing restitution for individual immovable property; whereas the number of artworks that have been restituted since the Washington Conference is estimated to fall between 1 000 and 2 000¹; whereas there is no complete list of artworks restituted in recent years;
- G. whereas artworks are still missing and are waiting to be returned to their rightful owners or to their heirs; whereas at the Washington Conference in 1998 Jonathan Petropoulos made an estimate that around 650 000 artworks had been stolen throughout Europe, and Ronald Lauder stated that 11 000 pieces of art worth between USD 10 and 30 billion at the time (1998) were still missing; whereas the Claims Conference-WJRO generally responds that there are no accurate estimates: approximately 650 000 artworks were stolen, of which perhaps 100 000 remain missing;
- H. whereas litigants continue to encounter legal problems owing, on the one hand, to the often very specific nature of their claims and, on the other, to the expiration of post-war restitution laws, the non-retroactivity of conventional norms, the lack of any definition of looted 'art', statute of limitations provisions on claims or the provisions on adverse possession and good faith;
- I. whereas restitution claims of looted works of art and cultural goods have mainly been addressed by means of public international law; whereas these rules must be complemented by stronger rules in private international law;
- J. whereas the insufficiently developed dimension of private law, both at international and European level, contributes to legal uncertainty in cross-border restitution cases of looted works of art and cultural goods, not only as regards completed transactions in Nazi-looted art but also with respect to future cases;
- K. whereas no EU legislation exists that explicitly and comprehensively governs restitution claims for works of art and cultural goods looted in armed conflicts by private individuals;
- L. whereas UNESCO, in conjunction with major auction houses, museums and renowned collectors in Europe, is developing advanced research into the provenance of these works in order to be able to return them to their owners;
- M. whereas the International Council of Museums (ICOM) has been publishing 'Red Lists' of categories of objects vulnerable to illicit trafficking for more than a decade, with the aim of complementing the Interpol database on stolen property;
- 1. Regrets that, to date, there has been practically no follow-up to its resolution on a legal framework for free movement within the internal market of goods whose ownership is likely to be contested, in which Parliament called on the Commission to undertake a

¹ According to the Claims Conference-WJRO Looted Art and Cultural Property Initiative.

study on a number of aspects related to civil and procedural law rules, provenance research, cataloguing systems, alternative dispute resolution mechanisms and the value of creating a cross-border coordination administrative authority; considers that Article 81(2) of the Treaty on the Functioning of the European Union (TFEU) could serve as a legal basis for conferring powers on the Union to act in this field;

2. Underlines that the looting of works of art and other cultural goods, during armed conflicts and wars, as well as in times of peace, is a major shared concern that needs to be addressed in terms of both prevention and restitution of looted cultural property in order to protect and ensure the integrity of the cultural heritage and identity of societies, communities, groups and individuals;
3. Notes that insufficient attention has been paid at EU level to the restitution of works of art and cultural goods looted, stolen or illegally obtained, inter alia in armed conflicts, in particular in the fields of private law, private international law and civil procedure; calls on the Commission to protect, support and encourage cross-border restitution claims of cultural assets displaced and misappropriated as a result of state-sanctioned acts of plunder or looted during armed conflicts; calls on the Commission and the Member States to issue recommendations and guidelines to raise awareness of the need to support national institutions in the Member States as regards restitution claims;
4. Stresses that institutions such as UNESCO and Interpol are calling for the strengthening of the protection of cultural heritage and the empowerment of states to put in place measures to facilitate restitution;
5. Regrets that there are no reliable statistics on the precise scale of looting of and illicit trade in cultural property; calls on the Commission and the Member States to establish reliable statistics in this field;
6. Expresses concern that most current political and legislative initiatives focus exclusively on public, administrative and/or criminal law; stresses that in order to set up a comprehensive regulatory framework, private law must be taken into account more intensely; calls on the competent authorities to adopt all appropriate measures and initiatives to achieve this;
7. Considers that further investigation is needed to shed light on the dark field of illicit trade in cultural property and to obtain better information about its scale, structure and size, such as by the ILLICID project currently under way in Germany for example;
8. Welcomes the recognition by some Member States that the unique problems associated with restitution claims of works of art and cultural goods looted, stolen or illegally obtained in armed conflicts and wars need to be addressed in order to arrive at legal solutions ensuring the property rights of private individuals, state and local government institutions and religious associations unfairly dispossessed of their works of art during armed conflicts or wars;
9. Stresses the importance of raising collective awareness to denounce these illegal practices and recalls that each object removed from its owner represents a historical and scientific value lost forever;

10. Notes that the most efficient way of countering trafficking in cultural goods and the development of the illegal art market, as well as supporting restitution, is to foster the development of fair practices in art trade and restitution from a transnational and global perspective, in terms of both their intended preventive effect and the coercive or punitive impact being sought;
11. Considers that in order to have a set of rules that can effectively prevent looting and smuggling of works of art and cultural goods, and to achieve a fully transparent, responsible and ethical global art market, the Commission should seek to cooperate with third countries with a view to establishing fruitful partnerships, taking into account, to this end, the principles set out in the 1995 UNIDROIT Convention on stolen or illegally exported cultural objects;
12. Considers that EU legislative action, including the dimension of private international law, would be appropriate for future transactions only;
13. Considers that it is time to put an end to the years of convolutions and nuances if a responsible and ethical European art market is to be established; calls on the Commission, in this regard, to identify civil law measures to help overcome the difficult problems encountered by private parties seeking the restitution of works of art genuinely belonging to them; calls at the same time on the Commission to develop a new debating framework for the identification of best practices and solutions for the present and the future;
14. Welcomes the Commission's proposal for a regulation of the European Parliament and of the Council on the import of cultural goods of 13 July 2017 (COM(2017)0375), as well as the amendments to the proposal adopted by Parliament on 25 October 2018; reiterates, in view of the global scope of the art market and the number of objects in private hands, the need for further efforts concerning the cross-border restitution of works of art and cultural goods looted in armed conflicts and wars; underlines that provenance research and European cooperation have proven useful for the identification and subsequent restitution of looted objects, and have in some cases prevented the financing of terrorist groups or wars;
15. Regrets that due to the absence or laxity of or differences in rules between Member States concerning provenance research and due diligence, many cross-border restitution claims cannot be carried out in an effective and coordinated way, which may foster looting and trafficking and provide incentives for smuggling as a result; notes that as a result of the lack of common standards, the applicable procedure often remains unclear to all stakeholders, including museums, art dealers, collectors, tourists and travellers; asks the Commission, therefore, to harmonise the rules on provenance research and to incorporate some of the basic principles of the 1995 UNIDROIT Convention on stolen or illegally exported cultural objects;
16. Emphasises that there is an urgent need to actively promote the systematic recourse to high-quality and independent provenance research in order to identify looted art works, to facilitate their restitution to the legitimate owners, to achieve a fully transparent, responsible and ethical art market, and to effectively prevent and deter looting and trafficking of art and cultural goods from armed conflicts and wars; notes the possibilities offered by European financial instruments in this direction; calls on the Commission and

Member States to encourage and support special training programmes in provenance research at Union and national level, in order to enable in particular those involved in the fight against the illicit trade in cultural goods to develop and improve their expertise, including through cross-border projects;

17. Considers that provenance research is closely linked to the due diligence obligation applicable when acquiring works of art and constitutes a major concern for all the actors in the art market as acquiring stolen artworks knowingly or through negligence, is punishable under certain national laws;
18. Considers that care should obviously be taken to create a comprehensive listing of all cultural objects, including Jewish-owned cultural objects plundered by the Nazis and their allies, from the time of their spoliation to the present day; urges the Commission to support a cataloguing system, to be used also by public entities and private art collections, to gather data on the situation of looted, stolen or illegally obtained cultural goods and the exact status of existing claims; urges the Commission to support digitisation projects that would establish digital databases or connect existing ones in order to facilitate the exchange of such data and provenance research;
19. Considers that to enable proper provenance research, a documentary record or a transaction register that is as detailed as possible needs to be created; asks the Commission to actively support the drafting of common guidelines on such registers and to adopt appropriate measures in order to encourage Member States to introduce a general obligation for art market professionals to maintain such a transaction register and, more generally, to adhere to the 1995 UNIDROIT Convention on stolen or illegally exported cultural objects;
20. Urges the Commission to encourage provenance research activities throughout the Union and to support it financially; suggests that the Commission organise a discussion forum in order to exchange best practices and find the best solutions for the present and the future;
21. Calls on the Commission to consider establishing a specific alternative dispute resolution mechanism for dealing with cases of restitution claims of looted works of art and cultural goods in order to overcome existing legal obstacles, such as a hybrid form of arbitration and mediation; stresses the importance of clear standards and transparent and neutral procedures;
22. Notes that statutes of limitation often create difficulties for claimants in restitution matters; calls on the Commission to assess the issue and strike the right balance for the limitation period applicable to looted art restitution claims, including Nazi-looted art restitution claims, which should take into account both the protection of the interests of the victims of looting and theft and those of the market; considers that the US Holocaust Expropriated Art Recovery Act could serve as an example;
23. Calls on the Commission to consider taking legislative action to strengthen the legal system for cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars on the basis of private international law instruments;
24. Calls on the competent EU institutions to encourage Member States to share

information on existing practices with regard to the provenance check of cultural goods, and to intensify their cooperation in order to harmonise the control measures and administrative procedures aimed at establishing the provenance of cultural goods;

25. Points to the lack of coordination at Member State level regarding the interpretation of the notion of ‘due diligence’; calls on the Commission to clarify the notion of ‘due diligence’ in relation to good faith; points, as an example, to Article 16 of the Swiss Federal Law on the International Transfer of Cultural Property, which bans dealers and auctioneers from entering into an art transaction if they have any doubt as to the provenance of the object; notes that under this law the burden of proof is partly transferred to the seller; however, the possessor of an artwork cannot rely on the principle of good faith if he or she is unable to prove that he or she paid due attention at the time of acquisition; calls on the Commission to adopt measures aimed at making the art market and also the potential buyers of artefacts aware of the importance of provenance research, given that such research is linked to the due diligence obligation;
26. Urges the Commission to develop common principles on access to public or private archives containing information on property identification and location and to proceed to a thorough mapping of existing databases of cultural goods and to envisage the creation of a central meta-database that takes account of the available information, is updated regularly and can be accessed by all relevant actors; considers that on the basis of this central meta-database, a common cataloguing system should be put in place which could use standardised object IDs; asks the Commission, therefore, to encourage the introduction of the object IDs developed and promoted by ICOM and other organisations as the market standard within the internal market as a whole; points out that such a database should be connected with INTERPOL’s ‘Stolen Works of Art Database’ and be updated regularly;
27. Considers that the creation, for the purposes of enabling more thorough and accurate provenance research, of a documentary record or transaction register of cultural property could be a further useful complement to the above-mentioned database; asks the Commission to adopt appropriate measures in order to encourage Member States to introduce a general obligation for art market actors to maintain such documentary records or transaction registers and, more generally, to adhere to the 1995 UNIDROIT Convention on stolen or illegally exported cultural objects;
28. Considers that the central database should function on the basis of a common cataloguing system whereby objects would be identified in a standardised manner (taking into account characteristics such as materials, techniques, measurements, inscriptions, title, subject, date or period, etc.);
29. Calls on the Commission to identify common principles on how ownership or title are established as well as rules on prescription and standards of proof and the concept of looting and art, taking into account the relevant rules in force in the Member States;
30. Calls on the Member States and candidate countries to make all necessary efforts to adopt measures to ensure the creation of mechanisms which favour the return of the property referred to in this resolution and to be mindful that the return of artworks looted, stolen or illegally obtained in the course of crimes against humanity to the rightful claimants is a matter of general interest under Article 1 of Protocol 1 to the

European Convention on Human Rights;

31. Highlights that in order to have a set of rules that can effectively prevent the looting and smuggling of works of art and cultural goods, and to achieve a fully transparent, responsible, accountable and ethical global art market, the Commission should seek to cooperate with third countries and to establish fruitful partnerships favouring the return of the property referred to in this resolution while taking into account both the principles set out in the 1995 UNIDROIT Convention on stolen or illegally exported cultural objects and Article 1 of Protocol 1 to the European Convention on Human Rights;
 32. Recalls that education fosters respect and appreciation for art works and other cultural goods as symbols of cultural heritage, and that it therefore plays an important role in preventing and discouraging looting and illicit trade in cultural goods; calls on the Commission and the Member States to encourage and support educational and awareness-raising activities in this regard, including in non-formal and informal settings;
 33. Calls on the Commission and all the relevant competent authorities to adopt measures aimed at making both the art market and the potential buyers of artefacts aware of the importance of provenance research, given that such research is linked to the due diligence obligation;
 34. Recalls that close cooperation between police and customs services at European and international level is essential in combating the illicit trafficking in works of cultural heritage;
 35. Supports the idea that cross-border restitution procedures concerning works of art and cultural goods looted, stolen or illegally obtained, and the active promotion of provenance research, should be addressed in the context of the 2018 European Year of Cultural Heritage ('EYCH') initiative; calls, therefore, on the Commission and the working group it has set up to include this item in their working plan detailing the activities for the 2018 EYCH;
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36. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

In recent years, the subject of looted art and the restitution of cultural property has come to the fore of historical enquiry and public consciousness alike. The problem of looted cultural goods, which were plundered in wartime through acts of violence, confiscation or by apparently legal transactions or auctions, remain part of human history. Looting in colonial times as well as looting in Syria and Iraq are still a massive problem.

One of the biggest organised and institutionalised theft of art works in history took place during the Second World War. Millions of objects of cultural significance were confiscated or stolen by the Nazis; today, more than seventy years after the end of the war, thousands of art items are still missing and are waiting to be returned to their rightful owners or their heirs. Courts are often not able to assess claims on their merits.

Under international law, this looting was illegal. During the war the United Nations made it clear that looted property recovered by States was to be restored to its nation of origin for return to its original owner. This looted property was then granted special status by the Nuremberg Tribunal, which expressly ruled that under Article 6(b) of the Nuremberg Charter, the looting of private property during the war could constitute a crime under international law. In its final judgment, the Tribunal specifically ruled that certain looting conducted after September 1, 1939 was a crime against humanity. National laws adopted after the war in Switzerland, Belgium, France, Germany, Greece, Italy and the Netherlands recognised this concept, creating a presumption in favour of the original owner of property looted during this period. The expiration of post-war restitution laws, the non-retroactivity of conventional norms, and various legal concepts such as limitation periods for claims or adverse possession, good faith and the missing definition of looted art, are reasons for the existence of international standards with regard to private claims to Nazi-looted art.

After the 1954 Hague Convention for the protection of cultural property in the event of armed conflict¹, the 1970 UNESCO Convention on the means of prohibiting and preventing illicit import, export and transfer of ownership of cultural property², the 1995 UNIDROIT Convention on stolen or illegally exported cultural objects³, the Washington Conference brought back to the international table, the issue of provenance research and restitution of art works to their rightful pre-war owners or their heirs. International practice today is typified by a lack of transparency: often cases are settled and works ‘cleared’, in a confidential agreement without legal argumentation. However, Austria, France, the Netherlands, the UK, and Germany have formed panels to help assist institutions with restitution cases. In September 2018, Stockholm’s Moderna Museet and Nationalmuseum have submitted a proposal to the Swedish government also requesting the creation of an independent panel to assist in handling cases of Nazi-looted art.

Experts based at local, national and international institutions such as ministries, museums, auction houses, archives, galleries or even private collectors have begun adopting measures designed to motivate the art world to adopt fair practices for identifying, recovering and restituting looted art. The field, however, remains compartmentalized along national,

¹ 14 May 1954, 249 UNTS 240.

² 17 November 1970, 823 UNTS 231.

³ 24 June 1995, 34 ILM 1322.

institutional and professional lines and still displays a marked tendency to focus on specific cases or collections¹. See the study commissioned by the Committee on Legal Affairs to the Policy Department for Citizens' rights and Constitutional Affairs "Cross-border restitution of claims of art looted in armed conflicts and wars and alternatives to court litigations".

Against this background, a number of efforts were made by the European Union to address the consequences arising from looting of art during the Second World War. These efforts started with Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State, which established a mechanism of cooperation between Member States designed better to protect and guarantee the integrity of Member States' cultural heritage. This Directive was soon followed by the adoption by the European Parliament on 14 December 1995 of a Resolution regarding the return of plundered property to Jewish communities and on 16 July 1998 of a Resolution regarding the restitution of property belonging to Holocaust victims. The De Clerq's, report on a legal framework for free movement within the internal market of goods whose ownership is likely to be contest was unanimously adopted at committee level on 17 November 2003². A month later, the plenary of the European Parliament adopted the resolution by an overwhelming majority of 487 votes in favour against 10 calling on Member States to make all necessary efforts to adopt measures to ensure the creation of mechanisms that would favour the return to their rightful claimants of looted works of art. It also requested action from the Commission, which should have undertaken a study on different aspects related to civil and procedural law rules, provenance research, cataloguing systems, alternative dispute resolution mechanism, and the value of creating a cross-border coordination administrative authority. The Commission did not give any follow up to the requests from Parliament.

No harmonized conflict of jurisdiction rules on this specific issue exist at international level. Regulation (EU) 1215/2012³ ("Brussels I") and the Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters aim at determining in advance which court or courts will have jurisdiction. Article 7(4) of Brussels I determines the competent court for examining civil claims for the recovery, based on ownership, of a cultural object. However, its application is limited to the defined category of cultural goods protected by Directive 93/7/EC (now repealed and replaced by Directive 2014/60). Brussels I brings some certainty to conflict of law issues about forum, but not to choice of law, statute of limitations, standards of proof or the manner of acquiring title. These are governed by Regulation (EC) No 593/2008⁴ ("Rome I") and Regulation (EC) 864/2007⁵ ("Rome II"). Rome I and II apply to a claim in respect of stolen or looted art or art obtained under duress, if the claim arose in the form of contract or tort litigation. By determining the law applicable to a dispute, the Rome Regulations will also determine the statute of

¹ See the study commissioned by the Committee on Legal Affairs to the Policy Department for Citizens' rights and Constitutional Affairs "Cross-border restitution of claims of art looted in armed conflicts and wars and alternatives to court litigations".

² A5-0278/2003.

³ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), OJ L 351, 20.12.2012, p. 1.

⁴ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), OJ L 177, 4.7.2008, p.6.

⁵ Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II), OJ L 199, 31.7.2007, p. 40.

limitations, the manner of acquiring good title and the standards of proof that should govern the issues. However the Regulations are prospective in operation and apply only to contracts concluded as of 17 December 2009, and events giving rise to damage occurring on or after 11 January 2009, respectively. Claims against defendants domiciled outside of Member States do not fall within their scope. In those cases, the jurisdiction of the courts of the state shall be determined by the private international law rules of that state.

An important aspect of going forward with the cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars is to define the scope. Broadly speaking this can be divided in three large categories:

1. Looting and theft that took place in a historic area such as colonisation.
2. Looting and theft that took place in recent times such as World War II.
3. Looting and theft that takes place in present and future time.

All the three require different treatments and policy instruments.

28.6.2018

OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION

for the Committee on Legal Affairs

on cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars
(2017/2023(INI))

Rapporteur for opinion (*): Nikolaos Chountis

(*) Associated committee – Rule 54 of the Rules of Procedure

SUGGESTIONS

The Committee on Culture and Education calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recalls that education fosters respect and appreciation for art works and other cultural goods as symbols of cultural heritage and identity, and that it therefore plays an important role in preventing and discouraging looting and illicit trade of cultural goods; calls on the Commission and Member States to encourage and support educational and awareness-raising activities in this regard, including in non-formal and informal settings;
2. Underlines that the cross-border nature of most restitution claims requires a clear and coherent cross-border approach that can overcome existing difficulties and facilitate the achievement of just and fair solutions; calls on the Commission to envisage setting up an advisory body at Union level to assist Member States and other actors in their efforts to locate and identify looted art works and other cultural goods and expedite their restitution to the legitimate owners;
3. Underlines that looting of works of art and other cultural goods during armed conflicts and wars, as well as in times of peace, is a major common concern that needs to be addressed both in terms of prevention and restitution of looted cultural property in order to protect and ensure the integrity of the cultural heritage and identity of societies, communities, groups and individuals;

4. Emphasises that there is an urgent need to actively promote the systematic recourse to high-quality and independent provenance research in order to identify looted art works, to facilitate their restitution to the legitimate owners, to achieve a fully transparent, responsible and ethical art market, and to effectively prevent and deter looting and trafficking of art and cultural goods from armed conflicts and wars; notes the possibilities offered by European financial instruments in this direction; calls on the Commission and Member States to encourage and support special training programmes in provenance research at Union and national level, in order to enable in particular those involved in the fight against the illicit trade in cultural goods to develop and improve their expertise, including through cross-border projects;
5. Welcomes the Commission's proposal for a regulation on the import of cultural goods of 13 July 2017; considering the global scope of the art market and the number of objects in private hands, underlines the need for further efforts concerning the cross-border restitution of works of art and cultural goods looted in armed conflicts and wars; underlines that provenance research and European cooperation have proved to be useful for the identification of looted objects and subsequently enabling them to be restituted and in some cases preventing the financing of terrorist groups or wars;
6. Is aware that provenance research is closely linked to the due diligence obligation applicable when acquiring works of art and constitutes a major concern for all the actors in the art market as acquiring, knowingly or by negligence, stolen artworks is punishable under certain national laws;
7. Calls on Member States to take appropriate action to put an end to the illegal trade in cultural goods from the territories of states at war such as Syria and Iraq, thereby preventing cultural goods from being used as a source of terrorist financing;
8. Regrets that due to the absence, laxity or differences of rules between Member States concerning provenance research and due diligence, many cross-border restitution claims cannot be carried out in an effective and coordinated way, which may as a result foster looting and trafficking and incentivise smuggling; as a result of the lack of common standards the applicable procedure often remains unclear for all stakeholders, including museums, art dealers, collectors, tourists and travellers; asks, therefore, the Commission to harmonise the rules on provenance research and to incorporate some basic principles of the 1995 UNIDROIT Convention on stolen or illegally exported cultural objects;
9. Notes that the growing public awareness with regard to works of art and cultural goods looted during World War II and more recently the surge in looting of art and cultural goods during the conflicts in Iraq and Syria, in addition to the importance of provenance research, have led to the development of useful resources for establishing the ownership history of a work of art; values the initiatives taken by museums and other public and private institutions aiming to develop tools to facilitate provenance research; urges the Commission to proceed to a thorough mapping of existing databases and to envisage the creation of a central meta-database that takes account of the available information, is updated regularly and can be accessed by all relevant actors;
10. Considers that on the basis of this central meta-database, a common cataloguing system should be put in place which could use standardised object IDs; asks therefore the Commission to encourage introducing the object IDs developed and promoted by ICOM and other organisations as the market standard within the entire internal market;

11. Considers that to enable proper provenance research, the creation of a documentary record or transaction register that is as detailed as possible is needed; asks the Commission to actively support the drafting of common guidelines on such registers and to adopt appropriate measures in order to encourage Member States to introduce a general obligation for art market professionals to maintain such a transaction register and, more generally, to adhere to the 1995 UNIDROIT Convention on stolen or illegally cultural objects;
12. Considers that in order to have a set of rules that can effectively prevent looting and smuggling of works of art and cultural goods, and to achieve a fully transparent, responsible and ethical global art market, the Commission should seek to cooperate with third countries with a view to establishing fruitful partnerships, taking into account, to this end, the principles set out in the 1995 UNIDROIT Convention on stolen or illegally exported cultural objects;
13. Asks the Commission to encourage Member States to share information on existing practices with regard to the provenance check of cultural goods and to intensify their cooperation in order to harmonise the control measures and administrative procedures aiming at determining the provenance of cultural goods;
14. Urges the Commission to encourage, and support financially, provenance research activities throughout the Union; suggests that the Commission organise a discussion forum in order to exchange best practices and find the best solutions for the present and the future;
15. Calls on the Commission to adopt measures aimed at making the art market and also the potential buyers of artefacts aware of the importance of provenance research, given that such research is linked to the due diligence obligation;
16. Supports the idea that cross-border restitution procedures concerning works of art and cultural goods looted in armed conflicts and wars, and the active promotion of provenance research, should be addressed in the context of the 2018 European Year of Cultural Heritage ('EYCH') initiative; calls therefore on the Commission and the working group it has set up to include this item in their working plan detailing the activities for 2018 EYCH.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	23.1.2018
Result of final vote	+: 24 -: 3 0: 1
Members present for the final vote	Isabella Adinolfi, Dominique Bilde, Andrea Bocskor, Nikolaos Chountis, Silvia Costa, Mircea Diaconu, Damian Drăghici, Angel Dzhambazki, Jill Evans, María Teresa Giménez Barbat, Petra Kammerevert, Svetoslav Hristov Malinov, Curzio Maltese, Rupert Matthews, Stefano Maullu, Luigi Morgano, John Procter, Michaela Šojdrová, Yana Toom, Helga Trüpel, Sabine Verheyen, Julie Ward, Bogdan Brunon Wenta, Theodoros Zagorakis, Bogdan Andrzej Zdrojewski, Krystyna Łybacka
Substitutes present for the final vote	Algirdas Saudargas

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	20.11.2018
Result of final vote	+: 17 -: 1 0: 0
Members present for the final vote	Joëlle Bergeron, Jean-Marie Cavada, Kostas Chrysogonos, Mady Delvaux, Mary Honeyball, Sajjad Karim, Sylvia-Yvonne Kaufmann, António Marinho e Pinto, Julia Reda, Evelyn Regner, Pavel Svoboda, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka
Substitutes present for the final vote	Sergio Gaetano Cofferati, Luis de Grandes Pascual, Tiemo Wölken, Kosma Złotowski

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

17	+
ALDE	Jean-Marie Cavada, António Marinho e Pinto
EFDD	Joëlle Bergeron
GUE/NGL	Kostas Chrysogonos
PPE	Daniel Buda, Luis de Grandes Pascual, Pavel Svoboda, Axel Voss, Francis Zammit Dimech, Tadeusz Zwiefka
S&D	Sergio Gaetano Cofferati, Mady Delvaux, Mary Honeyball, Sylvia-Yvonne Kaufmann, Evelyn Regner, Tiemo Wölken
VERTS/ALE	Julia Reda

1	-
ECR	Kosma Złotowski

0	0

Key to symbols:

- + : in favour
- : against
- 0 : abstention