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***“Contribution of police to the fight against  
the illicit trafficking of cultural objects, its  
role in the preservation of the world cul-  
tural heritage.*”**

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I hereby declare that the work submitted is mine and that where I have made use of another's work, I have attributed the source(s) according to the Regulations set in the Student's Handbook.

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## **Abstract**

This dissertation was written as part of the MA in Art, Law and Economy at the International Hellenic University. Among the important players in the fight against the illicit trafficking of cultural goods is police, both in domestic and international level. This dissertation aims to document initially the legal framework and the relative international instruments on the means of prohibiting and preventing the illicit trade of cultural property within domestic and international level. Emphasis will be given to the institutional initiatives that have been established both in international and European level. In addition, our intention is to represent the existence of specialized units of police in some countries. We endeavour to examine organisational structure, their role model and their function. Finally, our endeavour is oriented to formulate conclusions about police action in the area of world heritage preservation.

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## **Introduction**

Art crime is recognized as one of the most sophisticated forms of crime.<sup>1</sup> It is acknowledged that together with the trafficking in drugs and arms, the black market of artefacts and antiquities constitutes one of the most enduring and profitable illegal trades in the world.

When one thinks of art crime, a Hollywood image is created, one of elegant thieves in top hats and white gloves. But reality behind art crime, which is misapprehended by the general public and professionals alike, is far more twisted and captivating. Apart of cinematic thefts and characters, art crime depicts also the dimension of transnational organized crime groups, the participation of which results in financing all manner of other serious crimes, including the drug trafficking and terrorism. There are tens of thousands of artefacts documented stolen every year, but despite this fact the general public is only focused to the handful of well reputed museum heists that reach international headlines.<sup>2</sup>

The illegal trade in antiquities, thus, creates a number of damages. First, the antiquities as objects are frequently harmed. Second, scholarly material is lost because archaeological norms are infringed. Third, the origin country sacrifices its precious parts of cultural heritage to foreign countries. Fourth, purchased antiquities usually end up into private collections and cannot be researched by scholars or enjoyed by people who truly appreciate cultural property.<sup>3</sup>

In addition, looting and illicit trafficking of cultural objects impose major threats to world's cultural heritage. This not only motivates a continuing loss of cultural objects, but also the destruction of large numbers of archaeological and historical sites, as artefacts are often looted from tombs or cut off from larger pieces in order to acquire transportable parts for sale on the international art market. Furthermore,

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<sup>1</sup> Meško, Sotlar, and Winterdyk, "Policing in Central and Eastern Europe – Social Control of Unconventional Deviance, Conference Proceedings," 36.

<sup>2</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 208.

<sup>3</sup> Posner, "The International Protection of Cultural Property: Some Skeptical Observations," .

cultural objects are stolen from collections and museums or are trafficked in violation of export bans.<sup>4</sup>

Illicit trafficking of cultural goods has several forms and aspects of delinquent activity, including art theft, forgery, smuggling and looting. Particularly, in order to capture the aforementioned multiple dimensions, among the most recurrent art crimes we document the appearance of national and international illicit traffics of artworks, clandestine archeological excavations, criminal art collectors, the theft and falsification of artworks, the foreign recovery of cultural goods illicitly acquired - even by museums- not to remark the crimes in countries at war <sup>5</sup>.

The practice of looting is flourishing. The removal of boundaries to communication and transport, the opening up Asian and African markets, the adaptation of improved means of detection and destruction, and new methods of marketing and transacting cultural property are among the primary factors. The internet turned out to be particularly influential as it has opened the market to millions of new customers and is almost impossible for the law enforcement agencies to control.<sup>6</sup> The removal of antiquities to another country is usually the next step after looting. The most convenient method of doing so is through established illegal networks, indicating that organized crime plays a decisive role in the illicit antiquities trade. Smugglers operate as intermediaries between impoverished looters, antiquities dealers, and collectors in the West; removing antiquities from source nations through various countries to reach their ultimate resting point. The transactions in illicit antiquities is equivalent to, and intertwined with, other black markets as earnings are used to support the operation of additional criminal enterprise.<sup>7</sup> Art crime offers at least 6 billion dollars' profits to criminal groups annually. On the black market, stolen art usually attains only 10% of open-market value, mainly due to the fact that the more

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<sup>4</sup> Gruber, "The Fight Against the Illicit Trade in Asian Cultural Artefacts: Connecting International Agreements, Regional Co-Operation, and Domestic Strategies," 1.

<sup>5</sup> Charmey, *Art and Crime: Exploring the Dark Side of the Art World*, 57.

<sup>6</sup> Casey, "Buried Truth: A Criminological Analysis Of The Illicit Antiquities Trade," 120.

<sup>7</sup> *Ibid.*, 124.

famous the art is, the harder it is to sell. One of the greatest complications is that neither the public, nor government officials, capture the severity of art crime.<sup>8</sup>

Furthermore, it should be highlighted that all other multibillion dollar international markets have standards built-in already. It is only the art trade that has somehow succeeded in escaping strict initiatives, and preserved its centuries-old sense of gentlemen's agreements, codes of silence and anonymity, and clandestine deals.<sup>9</sup>

As we understand, since art crime is global in its breadth, therefore international law enforcement co-operation is needed.

Among the important actors in the fight against the aforementioned illegal activities linked to the illegal trafficking of cultural goods is police, both in domestic and international level. Police action is usually interwoven with other kinds of crime that attract public interest and attention. However, its direct or indirect contribution in the preservation of World Cultural Heritage is another important aspect that needs to be addressed.

This paper aims to document, initially, the legal framework on the means of prohibiting and preventing the illicit trade of cultural property within domestic and international level. Emphasis will be given to the institutional initiatives that have been established both in international and European level.

In addition, our intention is to represent the existence of specialized units of police in some countries. We endeavour to examine organisational structure, their role model and their function. Furthermore, a number of illustrated cases will be mentioned, where police's intervention was crucial either in preventing the loss of cultural objects of outstanding universal value, or in achieving their return to the source countries.

Finally, our endeavour is oriented to formulate conclusions about police action in the area of world heritage preservation.

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<sup>8</sup> Meško, Sotlar, and Winterdyk, "Policing in Central and Eastern Europe – Social Control of Unconventional Deviance, Conference Proceedings," 36.

<sup>9</sup> Charmey, *Art and Crime: Exploring the Dark Side of the Art World*, 57.

## **1. Legal framework on the means of prohibiting and preventing the illicit trade of cultural property within international level.**

Around the world, most States have introduced legislation that safeguards their cultural heritage to some degree. Some legislation may be characterized more advanced and sophisticated than others, in particular, evaluating and estimating contemporary illicit trafficking issues. Depending on the country, its historical background, cultural legacy, and legislative policies, cultural property may be supported and secured in part or as a whole, according to high, mid or low standards. This diversity of protection at domestic level results in an absence of international uniformity in the legal treatment of cultural property. However, at least sectional, some uniformity is accomplished by international conventions vis-à-vis their States Parties.<sup>10</sup>

It should be clarified that the United Nations is not a law-enforcement organization but rather a world diplomatic instrument that addresses a wide bundle of international issues that sometimes involve crime and law-enforcements matters.<sup>11</sup> UNESCO has no policing powers and no police force, though it is periodically requested by members of public or even national administrators to undertake this kind of initiative. Despite this absence of punitive power, UNESCO is profoundly concerned in the field of criminal activity related to cultural heritage mainly due to the fact that the whole problem of the illicit traffic in this domain is extremely complex.<sup>12</sup>

In relation to the fight against illicit export and removal of cultural objects, two international conventions and one protocol play an influential role in this field. These are: the 1954 Protocol to The Hague *Convention for the Protection of Cultural Property in the Event of Armed Conflict*; the 1970 UNESCO Convention; and the 1995 UNIDROIT Convention. Although neither Convention is without weaknesses, they have inaugurated an international dialogue about cultural property and they have offered a framework for the protection and recovery of cultural objects.<sup>13</sup>

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<sup>10</sup> Handbook, "Legal and Practical Measures Against Illicit Trafficking in Cultural Property," 3.

<sup>11</sup> Bazley, *Crimes of the Art World*, 157–158.

<sup>12</sup> Prott, "UNESCO and UNIDROIT: A Partnership against Trafficking in Cultural Objects," 136.

<sup>13</sup> Veres, "The Fight Against Illicit Trafficking of Cultural Property: The 1970 UNESCO Convention and the 1995 UNIDROIT Convention," 93.

### **1.1. First Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of an Armed Conflict.**

The first multilateral international agreement with the intention to protect cultural property was the 1954 Hague Convention for the Protection of Cultural Property in the Event of an Armed Conflict. The convention was formulated following the detriment and plundering of artwork that took place during World War II, and focused on safeguarding cultural property during times of armed conflict and military occupation.<sup>14</sup>

The 1954 Convention (which now has 114 States Parties), and its Protocol (now First Protocol, with 92 States Parties) were approved by a Diplomatic Conference in The Hague in 1954, and came into force in August 1956.<sup>15</sup>

The 1954 Protocol to the Convention (since 1999 named as the First Protocol) deals initially, with issues concerning the protection of movable cultural property, and the control, restriction of export during a conflict, and eventual return of such property at the end of the conflict. These provisions were withdrawn from the final draft into this independent legal instrument during the 1954 Diplomatic Conference in response to objections from certain countries, claimed that these provisions might regulate or intervene with the international trade in cultural property. States which ratify the First Protocol must introduce and enforce measures adequate to implement its provisions<sup>16</sup>.

Paragraph 1 of the Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict incentivised more than one interpretation. Article 1 of the aforementioned paragraph underlines that:

*“Each High Contracting Party undertakes to prevent the exportation, from a Territory occupied by it during an armed conflict, of cultural property”.*

Some authors comment this regulation as an intention to ban all types of removal. If cultural artefacts were exported during an armed conflict, there would be an unconditional right of restitution according to the Protocol. Others interpret the regulation

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<sup>14</sup> Ibid., 96.

<sup>15</sup> Boylan, “Implementing the 1954 Hague Convention and Its Protocols: Legal and Practical Implications,” 1.

<sup>16</sup> Ibid., 2–3.

as introducing a duty on the occupying power to prohibit any transactions contrary to the domestic regulatory legislation of the occupied country. All issues of private law and conflict of laws were excluded from the Draft Convention due to uncompromising diversities in national laws. Public international law rules on restitution were adapted in an optional protocol.<sup>17</sup> A further advance, that's worth to be mentioned, has been article 8 of the Statute of the International Criminal Court which precludes attacks against buildings devoted to religion, education, art, science or charitable purposes and historic monuments among the crimes for which it affords jurisdiction. This provision provoked prosecution and imprisonment of Croatian military officers for the destruction of the Mostar Bridge in Bosnia and Serbian officers for the shelling of Dubrovnik in Croatia. UNESCO succeeded in providing strong evidence facilitating the investigation and punishment of those acts.<sup>18</sup>

### **1.2. The UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970).**

This is the pioneer and most broadly ratified international convention that stands on the field of illicit trafficking in cultural property.<sup>19</sup> The 1970 Convention adopted in 14<sup>th</sup> November 1970 and entered into force on 24<sup>th</sup> April 1972. It has been ratified by 126 state-parties. It should be highlighted that among these states are major market countries such as the United States, the United Kingdom, Switzerland, Japan and so on.<sup>20</sup>

According to articles 1 and 2 par.2; the Convention has a two-fold aim:

a) To achieve international co-operation and solidarity and b) to attain a minimum level of uniform protection against the illicit trafficking of cultural property.<sup>21</sup>

The UNESCO Convention introduces measures preventing the import and trade of stolen cultural objects by establishing restitution provisions, inventories, and export certifications, monitoring trade, promoting scientific and technical institutions,

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<sup>17</sup> Roodt, "Cultural Heritage Jurisprudence and Strategies for Retention and Recovery," 159.

<sup>18</sup> Chapell and Hufnagel, Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime, 140–141.

<sup>19</sup> Handbook, "Legal and Practical Measures Against Illicit Trafficking in Cultural Property," 10.

<sup>20</sup> Stamatoudi, Cultural Property Law and Restitution, A Commentary to International Conventions and European Union Law, 64.

<sup>21</sup> Ibid., 33.

promulgating rules of ethics for those who handle with cultural artefacts, setting penal or administrative sanctions, and shaping a general international cooperation framework between States party to the Convention. The UNESCO Convention itself does not restrain the exportation of cultural property. Rather, it provides non-self-executing obligations which demand nationally implemented legislation by the States party to the Convention; if such legislation is not implemented, the Convention does not produce any influential and substantive result.<sup>22</sup>

Import and export controls for cultural property are afforded in Articles 6 and 7. Under Article 6, cultural property must be regulated by an export certification and in the absence of this kind of document exportation is prohibited.<sup>23</sup>

### **1.3. The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995).**

The Unidroit Convention was adopted in Rome on 24 June 1995 and entered into force on 1 October 1998. Until today it has been ratified only by 36 States parties.

It can be characterized as a succession or a completion of the 1970 Unesco Convention. As it is explicitly stated in the preamble to the 1995 Unidroit Convention, its aim is not only “to contribute effectively to the fight against illicit trade in cultural objects” but, additionally, to “establish common, minimal legal rules for the restitution and return of cultural objects between contracting parties”.<sup>24</sup>

The UNIDROIT Convention consists of civil law provisions and concentrates on topics from a private law perspective and so significantly ameliorates the chances for restitution. Unlike the UNESCO Convention, the UNIDROIT Convention permits no reservations apart those expressly declared within the treaty. Therefore, States have the obligation to implement all the provisions provided in the Convention, thereby establishing a uniform law that has comprehensive regulation.<sup>25</sup>

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<sup>22</sup> Veres, “The Fight Against Illicit Trafficking of Cultural Property: The 1970 UNESCO Convention and the 1995 UNIDROIT Convention,” 97–98.

<sup>23</sup> Ibid., 99.

<sup>24</sup> Stamatoudi, Cultural Property Law and Restitution, A Commentary to International Conventions and European Union Law, 66–68.

<sup>25</sup> Veres, “The Fight Against Illicit Trafficking of Cultural Property: The 1970 UNESCO Convention and the 1995 UNIDROIT Convention,” 100.

It provides for a claim to be filed before a court or other competent tribunal (the latter phrase was introduced to cover certain administrative units which in some countries have been given authorisation to decide on such claims). This means that an individual or a physical person may utilise the normal legal routes available in the country where the item is located in order to succeed a court order for the return of a stolen object, and a State may take similar initiative for the return of an illegally exported cultural object.<sup>26</sup>

It should be noted that in case of art-theft, claimants may be individuals, entities, or States - Parties, while in case of illicit export, claimants are solely States-Parties.<sup>27</sup>

Furthermore, all stolen and/or illicitly exported cultural objects are protected, not just inventoried items (as under Article 7 (b) (ii) of the 1970 UNESCO Convention) and are to be returned under the relevant articles.

Especially, cultural objects that have been unlawfully excavated are to be regarded stolen and covered, as such if this is compatible with the law of the State where the excavation occurred. Therefore, if a State Party has introduced special legislation relating to the State's ownership of illicitly excavated objects, then this State may demand restitution and gain from the regime applicable to stolen objects vis-à-vis a possessor in another State Party.<sup>28</sup>

Thus, according to article 5 par. 3, the return of even illegally exported cultural objects is justifiable, if the requesting State has to demonstrate, as a prerequisite, that the object is of a significant cultural importance for it.<sup>29</sup>

Finally, the UNIDROIT Convention incorporates none of the public law provisions of the UNESCO Convention, and, while the UNESCO Convention does not handle with the jurisdictions of the courts or other appropriate authorities, the UNIDROIT Convention introduces an additional source of jurisdiction in private law incentivising a claimant to bring a case in a State where an object is situated, and not only in the State of the domicile of the defendant. While the UNESCO Convention ignored controversial differences in legal systems, enabling the birth of various interpretations,

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<sup>26</sup> Prott, "UNESCO and UNIDROIT: A Partnership against Trafficking in Cultural Objects," 65.

<sup>27</sup> Handbook, "Legal and Practical Measures Against Illicit Trafficking in Cultural Property," 11–12.

<sup>28</sup> Ibid., 12.

<sup>29</sup> Ibid.

the UNIDROIT Convention has dealt with them and has adopted rules which could not have been accomplished in 1970.<sup>30</sup>

**1.4. The 2000 United Nations Convention against Transnational Organized Crime (UNTOC) usually referred to as the Palermo Convention.**

The 2000 Palermo Convention proved to be particularly beneficial in terms of prosecuting major organised criminal endeavours involving crimes influencing a nation's cultural property. For this convention to apply, the crime must be transnational and committed by an organised group. The crime has to be severe, involving penalties of a minimum four years' imprisonment. Along with crimes such as human trafficking and terrorism, the aforementioned multilateral agreement is also specifically oriented to address money laundering, corruption, illicit trafficking in endangered species and offences against cultural heritage. Palermo Convention simultaneously provides a supplementary mechanism for prosecution, especially in situations where antiquities of exceptional value have been looted and smuggled abroad and in situations of conspiracy including art forgery and money laundering.<sup>31</sup>

**1.5. The Unesco-WCO Model Export Certificate for Cultural Objects.**

Evolved jointly between UNESCO and the World Customs Organization, the Model Export Certificate is another useful means to fight against illicit trafficking in cultural property. It is formulated specifically for cultural objects, because in most countries the same export form is used for "ordinary" items as well as for cultural objects. This model attains requirements useful to diagnosing and tracing cultural objects. If it is extensively implemented worldwide and therefore functions as an international standard, it will benefit States and facilitate the work of police and customs officials. UNESCO and the WCO propose the adoption of the model, entirely or in partially, as the national export certificate specifically for cultural objects. Both the 1970 UNESCO and the 1995 UNIDROIT Conventions apply to the use of export certificates for cultural objects.<sup>32</sup>

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<sup>30</sup> Prott, "UNESCO and UNIDROIT: A Partnership against Trafficking in Cultural Objects," 70.

<sup>31</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World's Heritage (Heritage Matters)*, 31.

<sup>32</sup> Handbook, "Legal and Practical Measures Against Illicit Trafficking in Cultural Property," 13.

### **1.6. The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation.**

A State that was deprived of certain cultural objects of fundamental importance and that is requesting their restitution (or return) in cases where international conventions cannot be compatibles, due to the lack of retroactivity, may wish to conduct bilateral negotiations thereon within the *Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation*.<sup>33</sup>

It should be highlighted that bilateral agreements between States integrate hard law legal instruments, in other words their provisions are binding and enforceable.<sup>34</sup> The Committee that was adopted by UNESCO's General Conference in 1978, is composed of 22 UNESCO Member States and meets biannually. It is an intergovernmental body that offers a unique framework for discussion, and incentivizes negotiation for restitution of cultural property, thus contributing to non-judicial settlement of disputes. Its mandate contains mediation and conciliation alternatives, as well as public information campaigns on illicit trafficking and restitution issues.<sup>35</sup>

### **1.7. International Council of Museums.**

The International Council of Museums consists one of UNESCO's essential partners in fighting the illicit trafficking in cultural property. It is a non-profit, non-governmental, international organisation of museums and museums professionals, which focuses to the preservation, continuation and public sensitization of the world's cultural heritage. It was established in 1946 and nowadays consists of 26.000 members from 139 countries. One of its fundamental goals is combating the illicit trade in cultural property. In order to cultivate professional ethics ICOM issued its Code of Ethics for museum professionals in 1986 and its last revision took place in 2004. Furthermore, it collaborates closely with Interpol, WCO and conducted signed agreements on their

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<sup>33</sup> Ibid.

<sup>34</sup> Stamatoudi, Cultural Property Law and Restitution, A Commentary to International Conventions and European Union Law, 158.

<sup>35</sup> Handbook, "Legal and Practical Measures Against Illicit Trafficking in Cultural Property," 13.

role in the combat against illicit market of cultural goods and especially stealing from museums and pillaging of archaeological sites.<sup>36</sup>

Lastly, ICOM elaborates for the promotion of object ID. Object ID constitutes an international standard for depicting cultural objects and is the outcome of a huge research where all the important players in the fight against the removal of cultural property were involved (INTERPOL, museums, customs agencies, the art trade, the insurance industry and auction's houses). It provides a uniform manner of art and antiques documentation and simultaneously helps in recovering cultural items in the event of theft, illicit export, loss, as well as recomposing such items in case of partial destruction or deterioration.<sup>37</sup>

**1.8. EC Council Regulation No 3911/92 of 9 December 1992 on the export of Cultural goods – EC Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State.**

On a regional level, the European Union has introduced regulations for restraining illicit trafficking in stolen art. In 1993, it introduced a directive that installed a uniform system of export permits for artefacts between European Union members, as well as a system for returning stolen art objects among these nations.<sup>38</sup> Export permits are required for fourteen different categories of items and are provided by the country from which an object leaves the EU. Penalties on the infringement of this system of export permits can be quite rigid. Besides the system of export permits, EU countries are held to support each other in the restitution of items which have been stolen or illegally exported.<sup>39</sup> Then, in 2003, in response to an increase in the smuggling of looted Iraqi antiquities that took place after the decline of the Saddam regime, the European Union introduced the EU Council Regulation 1210/2003 in order to manipulate this activity.<sup>40</sup>

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<sup>36</sup> Stamatoudi, *Cultural Property Law and Restitution, A Commentary to International Conventions and European Union Law*, 181–182.

<sup>37</sup> Handbook, "Legal and Practical Measures Against Illicit Trafficking in Cultural Property," 17.

<sup>38</sup> Bazley, *Crimes of the Art World*, 159.

<sup>39</sup> Tjihuis, *Transnational Crime and the Interface between Legal and Illegal Actors The Case of the Illicit Art and Antiquities Trade*, 125–126.

<sup>40</sup> Bazley, *Crimes of the Art World*, 159.

Furthermore, in 2002, art crime was precluded in the category of offenses for which the prerequisite for double criminality was removed under the European Arrest Warrant. Six years later, the Council introduced non-binding conclusions on preventing and fighting the illicit trafficking of cultural goods (Council of the European Union document 14224/2/08). These conclusions give priority to the importance of close collaboration between those departments in member states that specialize in combating the illicit trafficking of cultural goods and propose the selection of contact points. They, also, endorse Interpol's actions to enhance its database based on the member state's intentions.<sup>41</sup>

New conclusions were adopted in 2011, during the Polish EU presidency, on preventing and combating crime against cultural goods that demanded for an improvement of the cooperation with Interpol on expanding and realising a system for emergency transmission of key events connected with illicit activity against cultural goods.<sup>42</sup>

## **2. Practises of transnational police cooperation on Art Crime.**

It is acknowledged that the endeavours by world organizations to manipulate the trafficking in stolen and looted art and cultural heritage objects may have obvious weaknesses, but they reflect a global consensus that this form of criminal motion needs to be terminated and, to that end, international coordination and cooperation are fundamental.<sup>43</sup> Police cooperation, in general, can be identified as a dynamic and complex procedure. Diversities in jurisdictions, variations within domestic legal systems, and differentiations in cultures, languages, are several important factors that need to be taken into consideration, as they significantly influence cooperation. However, there are numerous police cooperation practises established in the art crime area, among them pivotal role is played primarily by Interpol.<sup>44</sup>

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<sup>41</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 198.

<sup>42</sup> *Ibid.*

<sup>43</sup> Bazley, *Crimes of the Art World*, 159.

<sup>44</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 200.

## **2.1. Interpol's contribution in policing illicit trafficking of cultural goods.**

### **2.1.1. General Information.**

The International Criminal Police Organization (ICPO), better recognized by its telex address as Interpol, was established in 1923, is headquartered in Lyons, France, and is the oldest active multilateral agreement for police cooperation. It consists of 199 participating member states, and its core mission is promoting information exchange on a case-by-case bases.<sup>45</sup> Each of the member states occupies a National Central Bureau that is the contact spot for Interpol in a member state. National Central Bureau's personnel comprised of law-enforcement officials from the member nations<sup>46</sup>. Regardless of its other activities, which preclude an ambit of criminal databases, analytical services and proactive assistance for police operations worldwide, communication stands as the organization's primary activity, and millions messages are transmitted on an annual basis through Interpol's 124/7 communication system.<sup>47</sup> Although illicit trafficking of cultural goods is not specifically categorized as one of Interpol's crime priorities, Interpol has had a long history of engagement in this domain and has been in the forefront in distributing information about these crimes worldwide.<sup>48</sup> In 1963, the agency set up a specialized unit to handle stolen art works and cultural property and began publishing International Notices on Stolen Art Works. In 1995, Interpol installed a computerized index of international art thefts, which extended its stolen works of art database, which since 2005 is accessible online for all law enforcement agencies through Interpol's 124/7 system.<sup>49</sup> It should be noticed that this database contains about 34.000 stolen cultural objects, and access can be granted as well as to other organizations-individual through a specific application process.<sup>50</sup>

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<sup>45</sup> Ibid.

<sup>46</sup> Bazley, *Crimes of the Art World*, 159.

<sup>47</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 201.

<sup>48</sup> Bazley, *Crimes of the Art World*, 160.

<sup>49</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 201.

<sup>50</sup> Bazley, *Crimes of the Art World*, 160.

### **2.1.2. The PSYCHE Initiative – Expert meetings**

Emphasis must be given to the fact that different procedures of tracking theft and crimes against art provoke another challenge, when elaborating in a transnational setting. Apart from a limited group of countries that maintains a specialized police unit for the fight against illicit trafficking of cultural goods, most other law enforcement organizations preclude stolen artefacts and other art crimes as an ingredient of general stolen property database systems. Artefacts are usually handled like any other piece of stolen property, rather than being listed in a separate category. Interpol collaborates closely with other organizations dedicated to tracing stolen art, in order to solve this problem. In autumn 2011, an Italian proposal was introduced to the European Commission for approval and fund providing for PSYCHE (Protection System for Cultural Heritage).<sup>51</sup>

The fundamental scope of the ‘Psyche’ project is to fight the illicit traffic of cultural goods by materializing an internationally accessible tool to promote the identification and recovery of stolen works of art. Specifically, ‘Psyche’ intends to improve Interpol’s database on stolen works of art that will accommodate data insertion and inquiries by member countries of the information about stolen works. The project also plans to enable automatic data transfer between the Italian database “Leonardo” and Interpol database.<sup>52</sup>

Initial implementation will constitute Leonardo database completely interactive with the Interpol’s database and eventually full compatibility will be provided to law enforcement databases in 15 member states, including Austria, Belgium, Bulgaria, Cyprus, Estonia, France, Germany, Greece, Hungary, Malta, the Netherlands, Slovakia, Slovenia, Spain and Sweden.<sup>53</sup>

According to Interpol and police experts into art crime field, the effect of the new initiative is rather oriented to Europe and the EU, in particular. However, the im-

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<sup>51</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World’s Heritage (Heritage Matters)*, 33.

<sup>52</sup> Fornez PA International Activities, “ITALY - PSYCHE - Protection System for Cultural Heritage,” 1.

<sup>53</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World’s Heritage (Heritage Matters)*, 33.

provements of this project could end up to a procedure of international co-operation and exchange.<sup>54</sup>

Interpol also, periodically, arranges meetings related to fighting art crime, particularly biannual meetings of the expert working group on art crime that, according to participants, have significantly contributed in facilitating cooperation. These meetings, attended by worldwide experts, grant an essential opportunity for the experts to forge the personal acquaintanceships that constitute the main pillar of their informal network and close cooperation.<sup>55</sup>

### **2.1.3 International assistance**

Interpol collaborates with a number of agencies and institutions in order to improve its effect in the fight against art crime. One of the comrades – agencies is the Art Loss Register which constitutes a privately-run database on primary stolen, but also forged artefacts. The Art Loss Register and Interpol seem to provide similar services, but according to Interpol complement each in many cases.<sup>56</sup>

Another important partner is UNESCO. From the moment that UNESCO is deprived of law enforcement powers, it requests Interpol's assistance in cases where criminal activity is suspected.<sup>57</sup>

Additionally, Interpol works closely with UNESCO and the International Council of Museums (ICOM) and they co-organize training initiatives worldwide to improve knowledge and acquaintanceship of police specialists in relation to art crime.<sup>58</sup>

Emphasis must be given to the fact that it is not sufficient that Interpol works closely with international public and private organizations in order to recover artefacts, create acquaintanceship, and exchange information and intelligence, but as several cases demonstrate, a significant portion of the most crucial information for Interpol derives from the national level. In other words, if international art crimes are not unearthed at the national field, there will be no involvement of Interpol. It is, therefore,

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<sup>54</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 254.

<sup>55</sup> *Ibid.*, 201.

<sup>56</sup> *Ibid.*, 259.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

of fundamental importance that national police discover stolen or unlawfully exported cultural objects from other countries.<sup>59</sup>

### **3. Police's contribution in the fight against illicit trafficking of cultural goods at a national level**

The level of attention given to art crime by national police authorities alternates significantly. Some countries capture the importance and the severity of art theft and antiquities looting, and therefore highly specialized units have been created and are devoted to the prevention and investigation of art crime.<sup>60</sup> On the contrary, other countries provide policing art crime, low or medium priority.<sup>61</sup> It should be mentioned that, according to the Fine Art Registry, among the considerable factors that provoke the growth of the illegal in cultural property is the absence of resources and the lack of interest on a local level by domestic law enforcements.<sup>62</sup>

In this chapter we will focus on the national law enforcements agencies that preclude a specialized unit dedicated to the fight against illicit trafficking of cultural goods.

#### **3.1. Art Crime enforcement in the United States**

According to the justice system in the United States, federal agencies are being accorded a nationwide investigative jurisdiction and simultaneously specialized enforcement responsibilities. Therefore, the Federal Bureau of Investigation undoubtedly plays the dominating role in art crime enforcement.<sup>63</sup>

##### **3.1.1. FBI**

FBI has a long history in conducting inquiries relating to art crimes; therefore, it has introduced a recognized level of expertise in handling these inquiries. On one hand, this level can be characterized as institutional in nature that is the adoption and the preservation of the National Stolen Art File, one of the primary computerized art-theft databases. The aforementioned database encloses reports of stolen art and cultural property delivered by U.S. and foreign law-enforcement agencies. Further-

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<sup>59</sup> Ibid.

<sup>60</sup> Bazley, *Crimes of the Art World*, 166.

<sup>61</sup> Block, "European Police Cooperation on Art Crime: A Comparative Overview," 14.

<sup>62</sup> Chonaill, Reding, and Valeri, "Assessing the Illegal Trade in Cultural Property from a Public Policy Perspective," 8.

<sup>63</sup> Bazley, *Crimes of the Art World*, 160.

more, photographs of the stolen items, detailed descriptions and investigative information are being enclosed.<sup>64</sup> On the other hand, the FBI's art crime expertise extends to its personnel. Along the way of art crime investigation, agents acquired specialization in these cases, and in some instances, they perpetrated undercover roles that led to the successful recovery of stolen or illicit trafficked cultural objects.<sup>65</sup>

As a clear proof of its engagement to art-crime enforcement, the FBI established a national art crime team in 2004.<sup>66</sup> It consists of 13 devoted agents, legally assisted by special trial attorneys for prosecutions. The FBI Art Squad has recovered 2600 objects of an estimated value of 142 million dollars up to date. FBI's activity in this specific area proved to be particularly successful, even though a relatively small portion of thefts took place in the United States. Due to the fact that the US is being considered a preferred venue to conduct stolen art transactions, the FBI has provided important assistance to other countries in order to repatriate their stolen cultural property, and has actively participated in a serious number of undercover operations in coordination with other foreign counterpart police forces.<sup>67</sup>

### **3.2. Art Crime Enforcement in Europe**

European Union police collaboration in the field of protection of cultural patrimony takes place among a relatively small group of specialists and that the personal devotion and professionalism of these specialists is a fundamental factor in this cooperation.<sup>68</sup> However, we are in position to classify the member states as those that provide policing art crime a low priority, those that accord it medium priority, and those that provide it high priority.<sup>69</sup> In our section we aim to document the most successful units of the last two categories.

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<sup>64</sup> Ibid., 161.

<sup>65</sup> Ibid., 162.

<sup>66</sup> Ibid.

<sup>67</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 218.

<sup>68</sup> Block, "European Police Cooperation on Art Crime: A Comparative Overview," 13.

<sup>69</sup> Ibid., 14.

### **3.2.1. Member States that provide medium Priority**

#### **3.2.1.A. United Kingdom**

Undoubtedly London constitutes one of the world's art market epicenter. Acknowledging the necessity for the existence of a specialized investigative expertise to combat the sophisticated and particular by their nature, art crimes, the London Metropolitan Police, commonly known as New Scotland Yard, remodeled its Philatelic Squad into the Arts and Antique Squad in 1976. Its activities preclude inquiring art theft and forgery as long as with any eventual case of money laundering and intelligence concentrating relative to art crimes. The unit was dissolved for a five-year period during the eighties after a governmental decision to redirect resources to street crime but it was reconstructed in 1989 in its present form.<sup>70</sup>

The Art and Antiques Unit is unique in the whole country and constitutes a division of Specialist Crime Directorate. It has been provided with a national jurisdiction and its personnel consists of three detective constables, two researchers, and ten-part time special constables known as ArtBeat officers.<sup>71</sup> The Unit manages the "London Stolen Arts Database, which stores pictures and descriptions of more than 57.000 items<sup>72</sup> and has on average 120 inquiries on the go at any time<sup>73</sup>.

The MPS Art and Antiques Unit proved to be successful in the past. During the 1990s, regardless of the restricted number of detectives, they were annually recovering, in relation to the estimated value, more stolen property than the rest of the entire Metropolitan police.<sup>74</sup> Furthermore, the unit has been engaged in a number of efficacious investigations, including the undercover operation to recover Edward Munch's "The Scream", just three months after it was illegally removed from Oslo's National Museum of Art in 1994. Despite these remarkable achievements, however, the Metropolitan Police decided in 2007 that the unit was not among its policing pri-

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<sup>70</sup> Bazley, *Crimes of the Art World*, 167.

<sup>71</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 195.

<sup>72</sup> Metropolitan Police, "London Stolen Arts Database," 1.

<sup>73</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 196.

<sup>74</sup> Kerr, "The Role of the Police in the Co-Production of Art Security in London," 5.

orities and that its budget will be limited up to 50 per cent.<sup>75</sup> The squad responded to the imminent budget limitation with an alternative decision, the recruitment of art professionals from universities, museums and insurance companies as “special constables”. This project provided to the police squad, art experts.<sup>76</sup>

They follow four weeks of training and are being paid by their employers to elaborate with the police for 200 hours a year - equivalent to one day a fortnight. They are uniformed, accorded police powers and have the right to patrol in areas of London associated with the trade.<sup>77</sup> Undoubtedly, this innovative approach will maintain the Arts and Antiques Squad operation in the battle field against art crime.<sup>78</sup>

### **3.2.1.B. Germany**

In Germany, art crime is not among the principal priorities of the federal police. Although there is no national unit specialized to conduct art crime inquiries, the German federal criminal investigation service (*Bundeskriminalamt* or BKA) employs a number of specialists on art crime and involves in regular activities in this field.<sup>79</sup> In addition, BKA maintains a database for works of art that have been stolen or transacted in dubious circumstances. However, operational inquiries are conducted by the individual state criminal investigation services (*Landeskriminalamt* or LKA). Three states operate specialized art crime units: Baden-Wurttemberg and Bavaria, they both provide for a database on stolen works of art, and Berlin. The LKA Berlin successfully managed the notorious Beltracchi case. The BKA and the aforementioned specialized units are staffed by fifteen (15) officers with the explicit duty of art crime prevention and investigation.<sup>80</sup>

### **3.2.2. Member States that provide high Priority**

#### **3.2.2.A. France**

In France endeavors against the illicit trafficking of cultural goods are performed by the Central Office for the Fight against Traffic in Cultural Goods (*Office Central de*

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<sup>75</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 196.

<sup>76</sup> Bazley, *Crimes of the Art World*, 167.

<sup>77</sup> Copping, “Police Seek Sponsors to Tackle Rising Art Crime,” 1–2.

<sup>78</sup> Bazley, *Crimes of the Art World*, 168.

<sup>79</sup> Block, “European Police Cooperation on Art Crime: A Comparative Overview,” 16.

<sup>80</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 191.

*lutte contre le trafic de biens culturels (OCBC)*), originally established in 1975 and re-modeled in 1997.<sup>81</sup> Office headquarters are based in Paris.<sup>82</sup> The OCBC may constitute part of the Central Directorate of the Judicial Police but is operating as well on behalf of the gendarmerie and the customs authorities. Furthermore, authorization has been given to this special unit from the ministries of Culture, justice and Foreign Affairs.<sup>83</sup>

The Office personnel consists of approximately 30 policemen. It handles the offences of theft and illicit circulation of cultural goods, as well as art forgeries. The Office's missions preclude prevention, documentation, prosecution, international cooperation and training. In conjunction with the provisions of Council Directive 93/7/EEC of 15 March 1993, the OCBC is France's "central authority" which is in charge for implementing the claim and restitution procedures for national treasures that have unlawfully left the territory of one Member State for the territory of another.<sup>84</sup> At the national level, the office manages art crime investigations conducted by the regional criminal investigation departments and is directly engaged in around 100 inquiries per year into the most essential cases.<sup>85</sup>

Since 1995, the OCBC is running the TREIMA database of stolen art, which stores photographs of cultural goods stolen in France, as well other artefacts stolen out of the French frontiers and declared missing through Interpol. In 2005 TREIMA database has been upgraded and modernized (now called TREIMA II), in order to support image recognition searching and a web interface.<sup>86</sup>

It should be underlined that France has a serious problem of art thefts from cha-teaux and churches and, consequently, OCBC is considered a very active enforcement organization. Moreover, the French government has determined the protection of its cultural patrimony as a key task for the country. Eventually, OCBC is be-

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<sup>81</sup> Ibid., 190.

<sup>82</sup> Bazley, *Crimes of the Art World*, 168.

<sup>83</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 190.

<sup>84</sup> Armbruster et al., "Study on Preventing and Fighting Illicit Trafficking in Cultural Goods in the European Union," 127.

<sup>85</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 190.

<sup>86</sup> Ibid., 190–191.

lieved to be the most effective art –crime-fighting agency worldwide based on arrests and recoveries, given the fact of its limited personnel.<sup>87</sup>

### **3.2.2.B. Spain**

In Spain three different police agencies, *the Guardia Civil, the Cuerpo Nacional de Policia and the Mossos d' Esquadra*, are active and have been provided authorization to deal with the fight against the illicit trafficking of cultural goods. They all preserve the responsibility to prevent and investigate art crime.<sup>88</sup>

Guardia Civil maintains an art crime unit, initially founded at the end of the Seventies and subsequently, in 1987, transformed into a central operation department, the Grupo de Patrimonio Historico. The agency occupies 20 policemen and its principal activities are the investigation of art crime and the concentration of all art-crime related information reported by the territorial units. The *Guardia Civil* website publicizes images of stolen and recovered artworks.<sup>89</sup> Furthermore, the unit is in close international collaboration, especially with the Portuguese judiciary police, the Italian Carabinieri, and the French national police's OCBC.<sup>90</sup>

Historical Heritage Squad (Brigada de Patrimonio Historico) of the Criminal Police has been established in 1977. The Historical Heritage Squad is a central unit of the National Police (*Cuerpo Nacional de Policia*).<sup>91</sup> In a national level the heritage squad precludes two operational and one analytical department. The Historical Heritage Squad occupies 125 policemen, parceled in different regions of the country. Furthermore, the squad is in charge for managing the DULCINEA database of stolen works of art.<sup>92</sup> Antonio Cortes, an officer that provides his services in the Heritage Squad, gives emphasis to the ongoing challenge provoked by looter's use of metal detectors on archaeological areas. He also identifies three types of looter commonly activated in Spanish soil: casual pillagers, regular pillagers and "local experts". In

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<sup>87</sup> Bazley, *Crimes of the Art World*, 168.

<sup>88</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 194.

<sup>89</sup> *Ibid.*

<sup>90</sup> Block, "European Police Cooperation on Art Crime: A Comparative Overview," 17.

<sup>91</sup> Armbruster et al., "Study on Preventing and Fighting Illicit Trafficking in Cultural Goods in the European Union," 127.

<sup>92</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 194.

many cases the “local experts” build up local archaeological organizations and it is not uncommon for groups of this nature to accumulate extensive collections and sometimes even initiate their own museums-exhibitions. Unfortunately, these groups scarcely practice controlled excavation techniques, consequently their endeavors end in massive loss of scientific information and context. Furthermore, Cortes highlights the smuggling of antiquities across the Spanish frontiers. Specifically, he mentions a phenomenon whereby Spanish looters export illegally a cultural item abroad, conceive a fraudulent transaction and return the same item back in the country as a legal one.<sup>93</sup>

Thirdly, the police force of the autonomous community of Catalonia (the *Mossos d’Esquadra*), which has been reactivated in 1982 and was remodeled in its present form in 2002, maintains an art crime squad (the Grup de Patrimoni Historic), as a department of Criminal Investigation Commisariat.<sup>94</sup>

These three law enforcement authorities have contracted formal agreements; however, the coordination and the dissemination of information between them occur as part of unwritten informal agreements.<sup>95</sup>

#### **4. Italy-the Carabinieri TPC**

The Carabinieri Command for the Protection of Cultural Property (the Comando Carabinieri per la Tutela del Patrimonio Culturale (TPC) is considered to be the most effective military policing agency in the world for protecting artworks and archaeological property. There are, definitely, skilled officers and well organized programs elsewhere, but there is no other agency that can harmonize operational arrangement, range of expertise, capabilities, nor the record of Carabinieri TPC accomplishment. Bearing in mind that Italy may be admired as an open-air museum with perhaps the highest accumulation of art and archaeological treasure per square kilome-

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<sup>93</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World’s Heritage (Heritage Matters)*, 125–126.

<sup>94</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 194.

<sup>95</sup> *Ibid.*

ter worldwide, it is not fortuitous that Italian people would make protection of cultural property a national priority.<sup>96</sup>

#### **4.1. Historical background of the TPC**

On 3 May 1969, the Nucleus for the Protection of Artistic Patrimony of the Carabinieri Command (NTPA) was inaugurated. Italy was the very first country in the world to develop this kind of policing unit. It is more than impressive the fact that this unit was established even before the 1970 UNESCO Convention, that demands from the State parties to build up forces of this nature. Since that time, the Italians have had the ability of providing assistance to other nations, in order to implement the 1970 Unesco Convention and protect their cultural patrimony by creating an adequate police force.<sup>97</sup> During the seventies the unit was renamed and fell under the jurisdiction of the newly formed Ministry for Cultural Heritage and Activities. It was in the same period that the Command accomplished one of its first sensational recoveries with the discovery in Switzerland of three paintings that were removed illegally from the Ducal Palace in Urbino.<sup>98</sup>

On 12 August 2001, the Carabinieri force was accredited its present name, Comando Carabinieri per la Tutela del Patrimonio Culturale. It should be noted that even though the Carabinieri TPC is a completely qualified policing unit and counterpart of the Carabinieri police force in every sense of the word, it has the parallel responsibility to report directly to the Ministry of Cultural Heritage and Activities. By this time its personnel consisted of 278 policemen, specifically 25 senior officials, 117 Inspectors, 45 Superintendents and 91 officers. It was the aforementioned Ministry, with a decree on April 2006 that announced the Carabinieri TPC as the lead agency for all law enforcement and protection for cultural heritage in Italy and as Italy's lead unit for international coordination related to these aspects. At the present time, the Carabinieri TPC remains the largest police squad in the world specializing in recovering stolen artworks as well as safeguarding monuments and archaeological sites.<sup>99</sup>

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<sup>96</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World's Heritage (Heritage Matters)*, 1.

<sup>97</sup> *Ibid.*, 7.

<sup>98</sup> *Ibid.*, 8.

<sup>99</sup> *Ibid.*, 10.

The Guardia di Finanza, Italy's finance police has announced the recovery of 874,163 archaeological works and 2,416 paintings during the two-year period between 2012 and 2013.<sup>100</sup>

#### **4.2. Organization**

The Carabinieri TPC maintains two basic structural components: the central headquarters functions and the regional jurisdictions.<sup>101</sup>

The Central Headquarters are based in Rome and include, apart from the Command leadership, the databank, the photography laboratory and a facility for emergency preservation and temporary storage of the same items. Simultaneously, they maintain direct jurisdiction for the Lazio and Abruzzo area. Furthermore, the Operative Department consists of: a) the Antique Section, b) the Archaeological Section and c) the Contemporary Art and Counterfeit Section.<sup>102</sup>

The Rome Headquarters and the Operative Department are complemented by the regional field units that maintain varying sets of priorities and corresponding expertise as demanded by the diverging challenges of the individual regions. This organizational structure, with resources and assets in central location enhanced by regional field units with strong local acquaintanceship, composes a particularly effective foundation for assiduous and adequate law enforcement related to arts and archaeology.<sup>103</sup>

The regional jurisdictions are divided into thirteen distinct field units: TPC Ancona Unit, TPC Bari Unit, TPC Bologna Unit, TPC Consenza Unit, TPC Florence Unit, TPC Genoa Unit, TPC Monza Unit, TPC Napoli Unit, TPC Turin Unit, TPC Sassari Unit, TPC Palermo Unit, TPC Venice Unit and TPC Syracuse Unit.<sup>104</sup>

Furthermore, Operative Department provides central domestic forensic analysis and has the capability to provide direct technological assistance for investigations through wire tapping and mobile phone surveillance.<sup>105</sup>

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<sup>100</sup> Nathon, "Illicit Trade in Art and Antiquities. Legal Background and Recent Developments," 125.

<sup>101</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World's Heritage (Heritage Matters)*, 11.

<sup>102</sup> *Ibid.*, 9,11.

<sup>103</sup> *Ibid.*, 15.

<sup>104</sup> *Ibid.*, 8–9.

<sup>105</sup> *Ibid.*, 15.

### **4.3. The Databank – “Banca Dati Leonardo”**

In 1980 Carabinieri TPC made a very innovative step and established a databank of stolen artefacts, in order to improve its potentials for recognizing and recovering cultural objects.<sup>106</sup> Leonardo constitutes the largest database worldwide and the most advanced of its kind.<sup>107</sup> It stores information on over 3,400,000 items and more than 400,000 corresponding images. While direct access has been provided to police forces, on the contrary art dealers and auction houses have been granted indirect access upon special request.<sup>108</sup> The organization of the database is akin to an information tree that initiates with the general category of an item at the macro level such as sculpture, textile, painting or a ceramic vessel.<sup>109</sup>

Just as documentation can serve as an impediment against the intentional destruction of cultural property in a contested landscape, it also serves as a critical element of an effective security system. If a quality image with precise measurements and detailed descriptions exists, it is much easier to recognize and recover an artefact should it reappear for transaction on the art market. Leonardo database is build up to concentrate as much information as possible; not solely details of the lost item but also about specific events concerning the loss of the item.<sup>110</sup>

### **4.4. Duties**

The Carabinieri TPC is provided authorization to conduct inquiries in relation to all crimes and violations of the law that influence cultural heritage. These crimes contain, but are not limited to<sup>111</sup>:

- a. Theft and/or acceptance of stolen artworks.
- b. Damage to monuments and archeological sites.
- c. Forgery or alteration of paintings, graphic art, sculpture, objects and artefacts of antiquity.
- d. Organized trafficking in art and antiquities.

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<sup>106</sup> Ibid., 8.

<sup>107</sup> Bazley, *Crimes of the Art World*, 167.

<sup>108</sup> Armbruster et al., “Study on Preventing and Fighting Illicit Trafficking in Cultural Goods in the European Union,” 94.

<sup>109</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World’s Heritage (Heritage Matters)*, 16.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid., 11.

e. Any accompanying money laundering activity related to artworks.<sup>112</sup>

Furthermore, it should be noted that this special force is engaged in the observation and supervision of actual archaeological sites, and the activities of art and antique dealers, junk shops, and restorers.<sup>113</sup>

In order to correspond to these goals effectively, the Carabinieri TPC elaborates to safeguard the countryside, is in close collaboration with other law enforcement sections of the Carabinieri and other Italian policing agencies. Acknowledging that is usually easier to safeguard cultural property than it is to achieve the recovery of stolen and looted objects, the Carabinieri TPC has established innovative educational, outreach and security programs. The concept is simple, an adequately informed public will be less likely to get involved in illegal transactions concerning looted antiquities and ancient coins, subsequently, incentives and market for looting will be minimized.<sup>114</sup>

#### **4.5. International coordination**

The Carabinieri TPC officers, due to their premium skills and acquaintanceships in art and antiquities, have provided their services to assist other national efforts to protect their national treasures, including Hungary, Greece, Kosovo, Iraq, Cuba and Peru.<sup>115</sup> Two illustrated cases will be reported in order to capture the substantial meaning of the international cooperation in law enforcement.

##### **4.5.1. “The Sodona” case**

Firstly, the recovery of the wood panel painting nicknamed “il Sodona” created by Giovanni Antonio Bazzi, which was stolen in 1970 from the Civic Museum paintings collection in Montepulciano. In 1991 an Italian art historian, named Federico Zeri, recognized the painting in Paris and informed the Italian ambassador. The Carabinieri retrieved information from the Leonardo database, in order to provide evidence that the object had been actually stolen. In collaboration with the French counterpart police force, OCBC, the Carabinieri were in position to support a case for repat-

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<sup>112</sup> Bazley, *Crimes of the Art World*, 167.

<sup>113</sup> Nathon, “Illicit Trade in Art and Antiquities. Legal Background and Recent Developments,” 124.

<sup>114</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World’s Heritage (Heritage Matters)*, 37.

<sup>115</sup> Bazley, *Crimes of the Art World*, 167.

riation, which eventually took place on 19 February 1992. This case demonstrates a series of essential lessons: first, with the proper use of the database, stolen art can be safely recognized even many years after its disappearance; second, informed civilians can significantly contribute to the recovery procedure; and third, international collaboration is a decisive factor for the recovery of art and antiquities in a world where thieves are able to transport stolen objects across international frontiers.<sup>116</sup>

#### **4.5.2. “The Sabratha Head” case**

The case of the “Sabratha head” illustratively demonstrates the importance of international treaties, agreements between states and legal instruments. The individuals who perpetrated the theft of “Sabratha head” in Libya in 1990 waited patiently until the decline of the Gaddafi government before circulating the object in the market. Even though a police report provided clear evidence that the object had been illegally removed from the Sabratha archaeological museum, the absence of an active Libyan government gave the thieves the incentive to post the object up for sale through the internationally famous Christie’s auction house in London. When an Italian citizen purchased the artefact, the Carabinieri were then given the chance to build up the case that the object was stolen.<sup>117</sup> The Carabinieri’s exerted pressure led Christie’s to refund the purchased price and the “Sabratha head” was successfully handed over to the Libyan people by the Italian Prime Minister Mario Monti in 2012.<sup>118</sup>

By providing professional assistance to the Prosecutors, according to Italian penal procedure provisions, the Carabinieri have also become connoisseurs in submitting letters of rogatory members of the judiciary in other countries. A letter of rogatory (legal term for a request for judicial support imposed by another country) may enclose assistance in concentrating both material and witness evidence. This method offers the possibility to Courts from another jurisdiction to activate penal procedures

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<sup>116</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World’s Heritage (Heritage Matters)*, 38.

<sup>117</sup> *Ibid.*, 32.

<sup>118</sup> Gill, “Sabratha Portrait Head Returned to Libya,” 1.

against criminals who are suspected to be involved in crimes against a foreign cultural property.<sup>119</sup>

## **5. Greece**

Greek government undertook promising enforcement initiatives concerning the fight against the illicit trafficking of cultural goods. In a country with an overwhelming number of historically and culturally significant archaeological sites, there is a progressively aggressive special police unit that monitors illicit trafficking in its national-heritage items, and legislative improvements to strengthen these endeavors have been sought. The Greeks have concluded bilateral agreement with the Italian authorities over recovering antiquities and a close collaboration between the counterpart law enforcement agencies on antiquities investigations has been established.<sup>120</sup>

### **5.1. Legal Framework**

Initially, the first attempt of Greece to regulate the protection of antiquities dates back to 1932 with the introduction of Law 5351/32 “On Antiquities”. This law was considered, for its time, remarkably strict and detailed, although a number of legal ambiguities existed.<sup>121</sup> In 2002, Law 3028/02, also known as archaeological law, established strict sanctions concerning art crimes, such as illegal excavations and illicit trafficking of cultural objects. However, the absence of an administrative system, capable for implementation of the above-mentioned penalties, was more than obvious.<sup>122</sup>

In 2008, Greece’s high priority for the protection of cultural property and the repatriation of antiquities was expressed through the introduction of Law 3658/2008 “Measures for the Protection of Cultural Objects and Other Provisions”. It is an upgraded legislation, modeled mainly on the Italian system, for combating looting and

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<sup>119</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World’s Heritage (Heritage Matters)*, 32.

<sup>120</sup> Bazley, *Crimes of the Art World*, 169.

<sup>121</sup> Kaliampetos, “Combating Looting and Illicit Trafficking of Cultural Objects in Greece – Administrative Structure and New Legislation,” 2.

<sup>122</sup> *Ibid.*, 4.

illicit trafficking of cultural objects. <sup>123</sup>The aforementioned Law introduced a series of administrative changes <sup>124</sup>.

A special unit within the Ministry of Culture was inaugurated, the Directorate of the Management of the National Archive of Monuments, Documentation and Protection of Cultural Goods. The general duty of this Department is to combat the looting and illicit trafficking of antiquities. During arrest and seizure operations of the police, the presence of an archaeologist from the Department is mandatory. No seizure takes place, unless an archaeologist provides a scientific opinion that the objects are antiquities.<sup>125</sup>

Furthermore, Law 3658/2008 introduces the formulation of an inter-ministerial committee consisting of the Ministers of Culture, State Administration, and Justice, which will supervise policies relating to Cultural Heritage protection.<sup>126</sup>

In addition, acknowledging the fact that the prosecutors' offices play a pivotal role in the combat of illicit trafficking in antiquities, article 6 of Law 3658/2008 provides for the appointment of prosecutors specializing in cultural heritage. <sup>127</sup>This provision aims to foster systematic coordination between the administration and the prosecutors' offices. It was introduced based again on the Italian model, one that has proven extremely effective in the last years. Having a specialized prosecutor for the protection of cultural heritage has several advantages: The prosecutor acquires connoisseurship of the legal framework, gets a better understanding of the 'state of play,' and operates as a specific, permanent point of contact within Greece and abroad. <sup>128</sup> Furthermore, Law enforcement is enhanced by classifying antiquities trafficking as a category of organized crime, and by extending the provision of Law 3028/02 provid-

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<sup>123</sup> Ibid., 2.

<sup>124</sup> Ibid., 4.

<sup>125</sup> Korca, "Hellenic Ministry of Culture and Sports. The Protection of Cultural Heritage. The Structure of the Ministry The Legal Framework," 12–13.

<sup>126</sup> Kaliampetsos, "Combating Looting and Illicit Trafficking of Cultural Objects in Greece – Administrative Structure and New Legislation," 4.

<sup>127</sup> Sultan Jennifer, "Combating the Illicit Art Trade in the European Union: Europol's Role in Recovering Stolen Artwork," 4.

<sup>128</sup> Kaliampetsos, "Combating Looting and Illicit Trafficking of Cultural Objects in Greece – Administrative Structure and New Legislation," 23.

ing exclusive international jurisdiction to Greek courts in cases of ownership and possession of antiquities.<sup>129</sup>

## **5.2. Police Department for the Protection of Cultural Property and Antiquities**

Apart from the Ministry of Culture, an influential role in combating illicit trafficking in cultural goods is played by the Ministry for Civilian Protection (formely known as Ministry of Public Order) through the Hellenic National Police.<sup>130</sup>

One of the ten departments of the Greek Police Division of Public Safety is the Department for the Protection of Cultural Property and Antiquities. Initially, founded in 1984, under the name “the department against smuggling of antiquities”, this special police department was remodeled and acquired its present formation in 2011.<sup>131</sup> According to Presidential Decree 42/2011, two departments are currently operating, based in Athens and Thessaloniki. The Department of Athens consists of 27 policemen and 4 senior officers, and the counterpart of Thessaloniki consists of 10 policemen and a senior officer. The above mentioned dedicated personnel has been accorded national jurisdiction. Due to the need for secrecy and confidentiality, which are more than necessary in this sensitive field, the investigations are being conducting only by the authorized aforementioned personnel. Only in major operations, when it is necessary for reasons of public safety, special police forces may contribute their services as well.<sup>132</sup>

Both departments are responsible “for dealing with cases of illegal trafficking, commerce and theft of artefact and antiquities”. The departments handle with arrests, detention and confiscations, investigation of suspects, conducting surveillances and collaboration with INTERPOL and police departments abroad. The Departments receive information from the Directory of Museums, Exhibitions and Educational Programs of the Ministry of Culture, with which they are also in close collaboration.<sup>133</sup> Although human and financial resources are limited, due to the current critical finan-

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<sup>129</sup> Ibid., 2.

<sup>130</sup> Ibid., 17.

<sup>131</sup> Papaoikonomou, The Greek Police Department for the Protection of Cultural Property and Antiquities.

<sup>132</sup> Ibid.

<sup>133</sup> Kaliampetos, “Combating Looting and Illicit Trafficking of Cultural Objects in Greece – Administrative Structure and New Legislation,” 17.

cial situation of the country, the dedicated officers are completely devoted to their mission and are in position to correspond on an average of 10 important smuggling cases per year. More than impressive is the fact that they have accomplished a staggering 100 per cent successful prosecution.<sup>134</sup>

### **5.3. Databases**

The Directorate of the Management of the National Archive of Monuments, Documentation and Protection of Cultural Goods (Article 3, para. 4 of Law 3658/2008) maintains databases which store stolen and confiscated cultural goods. In addition, detailed information is enclosed concerning the following categories: <sup>135</sup>

- (a) Movable property stolen or misappropriated, and photographs thereof;
- (b) Illicit excavations or stripping, and photographs thereof;
- (c) Confiscated movable property, and photographs thereof;
- (d) Individuals involved in the illegal acquisition of and trafficking in movable Property
- (e) Individuals possessing metal detectors and other devices for searching the subsoil, the seabed, riverbeds and lakebeds.<sup>136</sup>

Furthermore, Ministry of Culture holds the responsibility to maintain the following databases:<sup>137</sup>

- (a) Stolen Byzantine and post-Byzantine cultural goods database;
- (b) Stolen prehistoric and Classical antiquities database;
- (c) Collection of digitized images of all stolen cultural goods from prehistoric to post-Byzantine times.<sup>138</sup>

## **6. Police reaction to illicit trafficking elsewhere in the world**

Elsewhere in the world, police reaction to art crimes, does not reflect the endeavors being made by the United States and the European Countries. Most countries do acknowledge the gravity of the problem. However, many underdeveloped nations

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<sup>134</sup> Papaoikonomou, The Greek Police Department for the Protection of Cultural Property and Antiquities.

<sup>135</sup> Armbruster et al., "Study on Preventing and Fighting Illicit Trafficking in Cultural Goods in the European Union," 93.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

cannot provide for adequate human and financial resources as well as specified know how, to be in position to wage an effective fight against art thefts and looters of cultural heritage objects, especially when their rivals are well organized and armed criminals. Even in cases, where the aforementioned countries maintain law enforcement bodies, they are not able to compensate them properly, a situation that consequently cultivates corruption among the personnel who has the fundamental duty to protect its nation's cultural treasures. <sup>139</sup>

### **7. Electiveness and contribution of law enforcement agencies to fight against the illicit trafficking of cultural goods.**

Unfortunately, we are not in position to consult credible statistics, on a universal level, in relation to art crimes. The nature of art crime itself necessarily implies that much of it goes undocumented or undiscovered. The problem initiates with local police practices, which still trend not to file stolen art separately from general stolen property. Because of this, the art crime archives of individual national police remain incomplete. Furthermore, national police are not willing to exchange information with other police forces, nor do they disseminate their own information beyond what is relevant to the current open cases. Interpol, which should be in position to offer a definitive archive, has concentrated information that while well-intentioned is also incomplete for obvious reasons. For the aforementioned reasons, investigations are subject to a poor recovery rate (10% in the most effective country, Italy) and a successful prosecution rate of only 2-6%. <sup>140</sup>

Furthermore, on one hand, the more significant the work stolen, the more likely it is to be recovered because well reputed artworks are more difficult to dispose of, and authorities work much harder to recover famous pieces. Greater Police involvement is probably a good explanation for the fact that the recovery rate for well-known and valuable works of art increases to an impressive fifty percent. However, law enforcement agencies in most countries accord art theft cases low priority, which is in

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<sup>139</sup> Bazley, *Crimes of the Art World*, 164.

<sup>140</sup> Dobovsek, Charmey, and Vucko, "Art Crime Archives," 31.

part due to the fact most of the agencies, lack the resources to appoint full-time agents as well as the required know how to art theft cases.<sup>141</sup>

Undoubtedly, in countries where a special unit well equipped and organized, dedicated to art crime exists, the outcomes are more than impressive. An illustrated case is the Carabinieri TPC unit. During the period from 1999 until 2011, a steady decline in the number of Art Thefts is documented, from two thousand in 1999 to fewer than one thousand in 2011. Between 2004 and 2011 a decrease in reported cases of illicit archaeological excavation had been noticed, from approximately 250 per year to approximately 50; and between 2006 and 2011 a catholic increase in archaeological items recovered, rising from 26,649 in 2006 to 35,727 in 2011. The reduction in the number of the occurring illicit archaeological excavations constitutes another remarkably achievement of the Carabinieri TPC, that demonstrates their operational effectiveness and preventive role. During the nineties TPC officers enlisted more than a thousand illicit excavations, in contrast to only forty that were documented in 2006.<sup>142</sup>

The Italian case should be interpreted as a role model for every endeavor in the field of art crime law enforcement. Their contribution to the fight against illicit trafficking of cultural goods is priceless and multidimensional. Apart from the direct impact through investigations and arrests, they formed activities in relation to every aspect of saving cultural heritage: they developed the most sophisticated database, acknowledging that documentation is quintessential in order not only to recover but to prevent cultural heritage as well. They acquired unique legal expertise and they are in position to provide guidance and coordinate efforts for the repatriation of foreign national treasures. Its successful international prosecutions have completely evolved the world of antiquities collecting and the procedures for museum acquisitions of art and antiquities<sup>143</sup>. Furthermore, knowledge acquisition and education of the public are substantial ingredients for a proactive prevention of the illicit art trade. There-

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<sup>141</sup> Sultan Jennifer, "Combating the Illicit Art Trade in the European Union: Europol's Role in Recovering Stolen Artwork," 764.

<sup>142</sup> Rush and Benedettini Millington, *The Carabinieri Command for the Protection of Cultural Property: Saving the World's Heritage (Heritage Matters)*, 175.

<sup>143</sup> *Ibid.*, 177.

fore, the Carabinieri TPC runs educational programs for children and offer training courses for other police officers, diplomats, museum professionals and high – ranking officials all over the world<sup>144</sup>. Finally, the Carabinieri played the leading role in organizing missions in Iraq and Kosovo to support the recovery from the extensive looting and secure the preservation of their cultural heritage of unique importance.<sup>145</sup> Currently a Carabinieri TPC squad is in Syria and is providing its precious services. An initiative has been undertaken for the temporary transportation of cultural goods from Syria to European Countries, in order to secure their protection from the war zone.

### **Conclusions**

In the sections, above, we endeavored to approach the law enforcement activities in relation to the sensitive field of the illicit trafficking of cultural goods. International and regional (Europe) efforts, that acknowledge and highlight the importance of the problem, have been developed in this area. Relevant International conventions (UNESCO, UNIDROIT) and instruments (INTERPOL) provide the basis for a coherent legal framework, oriented to combat the phenomenon that affects our human cultural patrimony.

However, reaction at a national level, considering the formation and the creation of specialized police units fully dedicated to the fight against art crime varies significantly. Only a small number of nations, even in the developed world, provide for an actual investigative capacity allocated to the area of art crime<sup>146</sup>. Although, endeavors in recent years to bolster the study of art crime have led in an increased understanding of the phenomenon internationally, from better informed media coverage to the addition of several new art squads in countries that never before had any dedicated police unit in the field, they address only part of the problem. <sup>147</sup>

For sure, cases as the Italian Carabinieri Command for the Protection of Cultural Patrimony demonstrate that a well-organized dedicated police unit can be extremely

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<sup>144</sup> Ibid., 176.

<sup>145</sup> Ibid., 161,170.

<sup>146</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 9.

<sup>147</sup> Ibid.

effective, not only in relation to investigation and prosecution, but to the prevention of the phenomenon as well. Italians, with a methodical and innovative approach, contribute more than successfully in every dimension of the cultural heritage preservation: registration and documentation, academic partnership, military deployment capability, protection of archaeological sites, building of clear evidence concerning the repatriation cases, special missions in places where world heritage monuments are at risk and organization of training courses for counterpart foreign police agents and educational programs. Their approach and ethics should be adopted from other countries as well. Greece, another country which attributes sensitivity in the field, followed the Italian paradigm and reshaped its legislative and administrative structure, along as with the reformation of special police department that affords two regional offices. The results reflect a decisive policy with satisfactory accomplishments: last October in 2016, Greek law enforcement agencies have broken up a major gang that illegally looted thousands of antiquities and exported them for sale by conniving European auction houses or directly to private buyers<sup>148</sup>.

It needs to be highlighted that the combat against the illicit trafficking of cultural goods is still not a combat of institutions, police agencies or governments. It is principally the fight of individuals. One of the fundamental problems police agents face in this fight is that they are competed with a system (art market) that is akin to a “closed shop”, clandestine and exclusive, as the police itself. In addition, art crime is not high on the hierarchy of the priorities of most police forces (as aforementioned countries of Southern Europe being of the illustrated exemptions). Art crime units are often limited to human and financial resources. Although, considering these limitations, national and Interpol achievements in the area of the illicit art crime should be even more valued and appreciated. It is apparent that in most cases the commitment and devotion of highly skilled and motivated staff that makes the difference and creates positive consequences.<sup>149</sup>

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<sup>148</sup> Paphitis and Kantouris, “Greek Police Break Up Gang That Excavated, Sold Antiquities,” 1.

<sup>149</sup> Chapell and Hufnagel, *Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime*, 265.

Finally, we should not forget that prevention is more important than suppression. This presupposes education and ethics, fortified by suitable resources. An adequate law enforcement will not be effective if the public is not aware of the substantial meaning of antiquities, if the neighbor does not inform the police of illegal actions next door, or if the police are not trained to see illicit excavations as a high priority. Public awareness and sensitization remains a field where still there is necessity of additional investment in a worldwide level. Initiatives should be undertaken in order to stimulate awareness that the illicit art and antiquities trade matters very much; not because it is outlawed, not because it is the most important transnational crime in numbers or monetary terms (it obviously is not), but because it is human history and culture that is stolen and often lost forever<sup>150</sup>. As Melina Mercouri, famous actress and former Greek Minister of Culture, once influentially said: “We will provide successful protection of our heritage only when every citizen becomes its sensitive and passionate guardian”<sup>151</sup>.

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<sup>150</sup> Tjihuis, *Transnational Crime and the Interface between Legal and Illegal Actors The Case of the Illicit Art and Antiquities Trade*, 219.

<sup>151</sup> Mercouri, “Speech about Cultural Heritage.”



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