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The European Union Legal Framework and the Fight against the Illicit Trafficking of Cultural Property Coming from Situations of Armed Conflict

Abstract: Since the beginning of the Iraqi and Syrian conflicts, the illicit trafficking of their cultural property has increased exponentially. Beside States, several international organizations are engaged in the fight against this illicit trafficking, such as the United Nations, UNESCO, and the European Union (EU). According to the relevant resolutions of the United Nations Security Council, the EU has adopted Council Regulation No. 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq, and Council Regulation No. 36/2012 concerning restrictive measures in view of the situation in Syria, both of which address issues related to the illicit trafficking of cultural property. Beside these Reg-

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ulations, the relevant existing EU legal framework comprises some other instruments: some articles of the Treaty on the Functioning of the European Union concerning the free movement of goods, and Council Regulation No. 116/2009 on the export of cultural goods. Finally, this legal framework is about to be complemented by a new Regulation on the introduction and the import of cultural goods adopted, in first reading, by the EU Parliament on 12 March 2019. The main aim of this article is an analysis of the EU legal framework in order to assess whether it can effectively contribute to the fight against the illicit trafficking in cultural property coming from situations of armed conflicts.

Keywords: illicit trafficking, cultural property, European Union, import, export, Syria, Iraq, armed conflict

Introduction

Nowadays we are witnessing the destruction of, damaging, and illicit trafficking in cultural property, especially in situations of armed conflict, such as those well-known in Iraq and Syria. Since the beginning of these armed conflicts, the illicit trafficking of Iraqi and Syrian cultural property has increased exponentially. There are a number of reasons for this, of which three are the most important. First of all, terrorist groups, such as ISIL and Al-Qaida, use the income coming from the illicit trafficking in cultural property to finance their activities. Secondly, the already existing looting and smuggling of Iraqi and Syrian cultural property, conducted by local and transnational criminal organizations, have increased exponentially, in large part taking advantage of the armed conflict situations. Thirdly, people escaping the Iraqi and Syrian conflicts may easily take with them cultural property in order to finance their journey. These same reasons are also relevant in other less well-known situations of armed conflict, such as those regarding Mali, Libya, and Yemen.

Besides States, several international and regional organizations are engaged in the fight against the destruction, damaging, and illicit trafficking in cultural property. Among these organizations are the United Nations (UN), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Criminal Court (ICC), Interpol, and the European Union (EU). For instance, the United Nations Security Council (UNSC) has adopted several resolutions especially dedicated to the Iraqi and Syrian situations, such as Resolution No. 1483 (2003), entitled *Situation between Iraq and Kuwait*,¹ and Resolution No. 2199 (2015),

¹ 22 May 2003, S/RES/1483 (2003).

entitled *Threats to International Peace and Security Caused by Terrorist Acts*.² These Resolutions are characterized by the fact that they concern the general situations of armed conflict in Iraq and Syria and the protection of cultural property, as well as other issues.³ The growing importance of and concern of the international community about the protection of cultural property in armed conflict is also evident in the latest UNSC Resolution No. 2347 (2017), entitled *Maintenance of International Peace and Security*.⁴ Unlike previous resolutions, it is entirely dedicated to the protection of cultural property in the event of armed conflict. Thus, it is applicable to any situation of armed conflict, and not only to those in Iraq or Syria.

In accordance with UNSC Resolutions Nos. 1483 and 2199, the EU has adopted two regulations: Council Regulation (EC) No. 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq⁵ ("Regulation 1210") and Council Regulation (EU) No. 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria⁶ ("Regulation 36"). Like the relevant UNSC Resolutions, these Regulations concern not only the fight against the illicit trafficking of cultural property, but also other issues related to the Iraqi and Syrian situations of armed conflict.⁷

² 12 February 2015, S/RES/2199 (2015).

³ Another resolution on this same topic that deserves to be mentioned is UNSC Resolution No. 2253, 17 December 2015, S/RES/2253 (2015), entitled *Threats to International Peace and Security Caused by Terrorist Acts*.

⁴ 24 March 2017, S/RES/2347 (2017).

⁵ OJ L 169, 8.07.2003, p. 6.

⁶ OJ L 16, 19.01.2012, p. 1.

⁷ For more on the UNSC resolutions and the EU regulations mentioned in this text, see, amongst others: M. Frigo, *Approaches Taken by the Security Council to the Global Protection of Cultural Heritage: An Evolving Role in Preventing Unlawful Traffic of Cultural Property*, "Rivista di diritto internazionale" 2018, Vol. 101(4), pp. 1165-1181; S. Urbinati, *The Evolving Role of the United Nations Security Council and the Protection of Cultural Heritage in the Event of Armed Conflict*, "QIL (Questions of International Law)", 31 March 2018, <http://www.qil-qdi.org> [accessed: 12.03.2019]; K. Hausler, *Cultural Heritage and the Security Council: Why Resolution 2347 Matters*, "QIL (Questions of International Law)", 31 March 2018, <http://www.qil-qdi.org> [accessed: 12.03.2019]; A. Jakubowski, *Resolution 2347: Mainstreaming the Protection of Cultural Heritage at the Global Level*, "QIL (Questions of International Law)", 31 March 2018, <http://www.qil-qdi.org> [accessed: 12.03.2019]; B. Kretschmer, *Transnational Organised Crime and Cultural Property*, in: P. Hauck, S. Peterke (eds.), *International Law and Transnational Organised Crime*, Oxford University Press, Oxford 2016; R.M.G. Scott, *The European Union's Approach to Trade Restrictions on Cultural Property: A Trendsetter for the Protection of Cultural Property in Other Regions?*, "Santander Art and Culture Law Review" 2016, Vol. 2(2), pp. 211-236; C. Roodt, *Private International Law, Art and Cultural Heritage*, Edward Elgar, Cheltenham 2015; T. Scovazzi, *Evolutionary Trends as Regards the Return of Removed Cultural Property*, in: L. Pérez-Prat Durbán, A. Lazari (eds.), *El tráfico de bienes culturales*, Tirant lo Blanch, Valencia 2015, pp. 25-90; A. Jakubowski, O. Jakubowski, *Poland*, in: J.A.R. Nafziger, R. Kirkwood Paterson (eds.), *Handbook on the Law of Cultural Heritage and International Trade*, Edward Elgar, Cheltenham 2014; S. Urbinati, *Improving the Principle of Cooperation against Illegal Movement of Cultural Property*, "Transnational Dispute Management" 2013, Vol. 10(5); G. Carducci, *The Growing Complexity of International Art Law: Conflict of Laws, Uniform Law, Mandatory Rules, UNSC Resolutions and EU Regulations*, in: B.T. Hoffman (ed.), *Art and Cultural Heritage: Law, Policy and Practice*, Cambridge University Press, Cambridge 2009.

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Beside Regulations 1210 and 36, the existing EU legal framework to combat the illicit trafficking of cultural property is composed of other legal instruments having a more general scope of application: some parts of the Treaty on the Functioning of the European Union⁸ (TFEU) concerning the free movement of goods (Articles 28 to 30 and 34 to 36) within the territory of the EU; and Council Regulation (EC) No. 116/2009 of 18 December 2008 on the export of cultural goods⁹ (“Regulation 116”). Furthermore, within this legal framework there is also 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 State¹⁰ (“Directive 60”). Nevertheless, since this Directive concerns only “[...] the return of cultural objects classified or defined by a Member State as being among national treasures, which have been unlawfully removed from the territory of that Member State”,¹¹ it does not apply to cultural property coming from third States, such as those from Iraq and Syria and from other countries in situations of armed conflict. Finally, the current EU legal framework is about to be complemented by a new Regulation on the introduction and the import of cultural goods¹² (“Import Regulation”), which the EU Parliament has just adopted, in first reading, on 12 March 2019, and which should enter into force in the upcoming months, before the ending of the current legislature.

Since the EU is essentially an economic organization, strictly speaking it should pursue the promotion of free trade of goods amongst its Member States, without paying attention to what happens outside its territory, all the more so in situations of conflict external to its boundaries. Nevertheless, its ambitions to expand its competences outside the economic framework are well known and, seen in this light, it is clear that the EU intends, via the Regulations mentioned above, to deal with the protection of cultural property of third countries – i.e. States that are not EU Members – in situations of armed conflict, such as Iraq and Syria.

⁸ Consolidated version, OJ C 326, 26.10.2012, p. 47.

⁹ OJ L 39, 10.02.2009, p. 1.

¹⁰ OJ L 159, 28.05.2014, p. 1.

¹¹ Ibidem, art. 1. In order to better delineate the scope of application of this instrument, see also some definitions included in Article 2: “[...] (1) ‘cultural object’ means an object which is classified or defined by a Member State, before or after its unlawful removal from the territory of that Member State, as being among the ‘national treasures possessing artistic, historic or archaeological value’ under national legislation or administrative procedures within the meaning of Article 36 TFEU; [...] (3) ‘requesting Member State’ means the Member State from whose territory the cultural object has been unlawfully removed; (4) ‘requested Member State’ means the Member State in whose territory a cultural object, which was unlawfully removed from the territory of another Member State, is located”.

¹² Proposal for a regulation of the European Parliament and of the Council on the import of cultural goods, 2017/0158 (COD). This Regulation has been adopted, in first reading (P8_TA_PROV(2019)0154), by the EU Parliament on 12 March 2019 and is now awaiting the approval of the EU Council. Then it will be published in the “Official Journal of the European Union” and will enter into force for all EU Member States. E. Gould, *The EU’s Parting Gift to the UK Art Market?*, Blog of the Institute of Art and Law, 1 April 2019, <https://ial.uk.com/the-eus-parting-gift-to-the-uk-art-market/> [accessed: 08.04.2019].

The main purpose of this article is to analyse the EU legal framework, including in the light of the newly passed and not yet in force Import Regulation. This analysis will allow for an assessment of whether the EU legal framework can effectively contribute to the fight against the illicit trafficking of cultural property coming from situations of conflict. In order to achieve this purpose, the article firstly examines the existing EU legal framework, which, as mentioned above, is comprised of the TFEU provisions on the free movement of goods within the territory of the EU, and Regulations 116, 1210, and 36. Secondly the article analyses the new Import Regulation, which is expected to enter into force in the next few months.

Provisions of the TFEU on the Free Movement of Goods within the Territory of the EU

The TFEU provides that cultural goods¹³ located on the territory of the EU are considered like any other common good. This means that cultural property can move freely among the borders of the EU internal market, because custom duties and quantitative restrictions on imports and exports, as well as all changes and measures having an equivalent effect, are prohibited among Member States.¹⁴ This encompasses all cultural property, including that coming from third countries,¹⁵ once it enters the EU's customs territory.

However, in the TFEU the cultural component of cultural goods is taken into account by the provision of an exception to the prohibition of quantitative restrictions on imports and exports, as well as of measures having equivalent effect. This exception is provided in Article 36 TFEU and concerns “[...] the protection of national treasures possessing artistic, historic or archaeological value [...]”.¹⁶ However, it has to be noted that since this exception concerns only “national treasures”¹⁷

¹³ In the EU legal framework there are only references to “cultural goods”, and the expression “cultural property” is never employed. Nevertheless, these two expressions have to be considered as synonyms. In this article both expressions, as well as that of “cultural objects”, will be utilized with an equivalent meaning.

¹⁴ Articles 28 to 30 and 34 to 36 TFEU.

¹⁵ Article 28(2) TFEU: “The provisions of Article 30 and of Chapter 3 of this Title shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States”.

¹⁶ Article 36 TFEU: “The provisions of Articles 34 and 35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States”.

¹⁷ For more on the difficulties arising from this expression, see: M. Frigo, *Circulation de biens culturels, détermination de la loi applicable et méthodes de règlement des litiges*, Académie de Droit International de La Haye, La Haye 2016, pp. 307 ff.

of EU Member States, it is not applicable to cultural property coming from third countries. This implies that once third countries' cultural goods enter in the EU territory, they may then freely circulate there like any other good.

Regulation 116 on the Export of Cultural Goods

Regulation 116 has a general scope of application and takes into consideration all the exportations of cultural goods from the EU to a third country: "The export of cultural goods outside the customs territory of the Community shall be subject to the presentation of an export licence".¹⁸

Categories of cultural property covered by Regulation 116 are listed in its Annex I.¹⁹ Among these categories, there are some which are considered particularly sensitive as potential objects of illicit trafficking coming from countries in a situation of armed conflict, such as Iraq, Syria, Mali, Yemen, and Libya. These categories, regardless of their value, include: archaeological objects more than 100 years old, which are products of excavations and finds on land or under water; archaeological sites and archaeological collections; elements forming an integral part of artistic, historical, or religious monuments which have been dismembered, of an age exceeding 100 years; incunabula and manuscripts, including maps and musical scores, singly or in collections.

¹⁸ Article 2(1).

¹⁹ "A. 1. Archaeological objects more than 100 years old which are the products of: - excavations and finds on land or under water; - archaeological sites; - archaeological collections; 2. Elements forming an integral part of artistic, historical or religious monuments, which have been dismembered, of an age exceeding 100 years; 3. Pictures and paintings, other than those included in categories 4 or 5, executed entirely by hand in any medium and on any material; 4. Watercolours, gouaches and pastels, executed entirely by hand on any material; 5. Mosaics in any material executed entirely by hand, other than those falling in categories 1 or 2, and drawings in any medium executed entirely by hand on any material; 6. Original engravings, prints, serigraphs and lithographs with their respective plates and original posters; 7. Original sculptures or statuary and copies produced by the same process as the original (1), other than those in category 1; 8. Photographs, films and negatives thereof; 9. Incunabula and manuscripts, including maps and musical scores, singly or in collections; 10. Books more than 100 years old, singly or in collections; 11. Printed maps more than 200 years old; 12. Archives, and any elements thereof, of any kind or any medium which are more than 50 years old; 13. (a) Collections and specimens from zoological, botanical, mineralogical or anatomical collections; (b) Collections of historical, paleontological, ethnographic or numismatic interest; 14. Means of transport more than 75 years old; 15. Any other antique items not included in categories A.1 to A.14 (a) between 50 and 100 years old toys, games, glassware, articles of goldsmiths' or silversmiths' wares, furniture, optical, photographic or cinematographic apparatus, musical instruments, clocks and watches and parts thereof, articles of wood, pottery, tapestries, carpets, wallpaper, arms, (b) more than 100 years old. The cultural objects in categories A.1 to A.15 are covered by this Regulation only if their value corresponds to, or exceeds, the financial thresholds under B.

B. Financial thresholds applicable to certain categories under A (in euro). Value: Whatever the value: - 1 (Archaeological objects); - 2 (Dismembered monuments); - 9 (Incunabula and manuscripts); - 12 (Archives). 15 000: - 5 (Mosaics and drawings); - 6 (Engravings); - 8 (Photographs); - 11 (Printed maps). 30 000: - 4 (Watercolours, gouaches and pastels). 50 000: - 7 (Statuary); - 10 (Books); - 13 (Collections); - 14 (Means of transport); - 15 (Any other object). 150 000: - 3 (Pictures)".

Article 2(2) provides that the export licence has to be requested for all cultural objects a) lawfully and definitively located on a Member State territory on 1 January 1993, and b) lawfully and definitively dispatched from another Member State, or imported from a third country, or re-imported from a third country after lawful dispatch from a Member State.

Thus currently, on the basis of Regulation 116, the EU seems able to control the exit from its territory of cultural goods, even if they come from third countries. Since Iraqi and Syrian cultural property corresponds to cultural objects imported from a third country, Regulation 116 has to be considered applicable to them. Moreover, inasmuch as Regulation 116 utilizes the general expression “third country”, it is possible to affirm that its control at the point of export from the EU territory is applicable not only to Iraqi and Syrian cultural property, but also to cultural goods coming from other States which are not members of the EU, such as Mali, Libya, and Yemen. Nevertheless, it seems that the possibility to control the export of a third country’s cultural property has to be considered hardly achievable, since the only provided restriction on the release of an export licence is applicable when “[...] cultural goods are covered by legislation protecting national treasures of artistic, historical or archaeological value in the Member State concerned”.²⁰ On this basis, even if a licence is required to export third country’s cultural goods outside the EU territory, actually there are hardly any restrictions on the issuance of the relevant export licence for these objects. In this way, limitations on the export of third countries’ cultural property have to be provided by the domestic law of each EU Member State. This means that in this field there may be a significant lack of uniformity amongst the EU Member States, with the result that new illicit routes of trafficking of third countries’ cultural objects will develop through the countries with the least effective domestic regulations.

Regulations 1210 and 36 Concerning Economic and Financial Relation Restrictions with Iraq and Syria

Regulations 1210 and 36 have been adopted to fight against the financing of terrorist groups located in Iraq and Syria. Thus these regulations contain, in addition to provisions concerning the fight against the financing of terrorist groups, some provisions combating the illicit trafficking of cultural property illegally removed from these countries. In other words, in these Regulations the fight against the illicit trafficking in cultural property is considered as a means, amongst others, to stop the financing of terrorist groups and their activities.

²⁰ Article 2(2).

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Article 3 of Regulation 1210 provides that:

1. The following shall be prohibited:
 - a) the import of or the introduction into the territory of the Community of,
 - b) the export of or removal from the territory of the Community of, and
 - c) the dealing in, Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance including those items listed in Annex II, if they have been illegally removed from locations in Iraq, in particular, if:
 - i) the items form an integral part of either the public collections listed in the inventories of Iraqi museums, archives or libraries' conservation collection, or the inventories of Iraqi religious institutions, or
 - ii) there exists reasonable suspicion that the goods have been removed from Iraq without the consent of their legitimate owner or have been removed in breach of Iraq's laws and regulations.
2. These prohibitions shall not apply if it is shown that either:
 - a) the cultural items were exported from Iraq prior to 6 August 1990; or
 - b) the cultural items are being returned from Iraq institutions in accordance with the objective of safe return as set out in paragraph 7 of the UNSC Resolution 1483 (2003).

Article 11-*quater* of Regulation 36 provides that:

1. It shall be prohibited to import, export, transfer, or provide brokering services related to the import, export or transfer of, Syrian cultural property goods and other goods of archaeological, historical, cultural, rare scientific or religious importance, including those listed in Annex XI, where there are reasonable grounds to suspect that the goods have been removed from Syria without the consent of their legitimate owner or have been removed in breach of Syrian law or international law, in particular if the goods form an integral part of either the public collections listed in the inventories of the conservation collections of Syrian museums, archives or libraries, or the inventories of Syrian religious institutions.
2. The prohibition in paragraph 1 shall not apply if it is demonstrated that:
 - a) the goods were exported from Syria prior to 15 March 2011; or
 - b) the goods are being safely returned to their legitimate owners in Syria.

In order to assess the above provisions of these Regulations, two elements have to be taken into consideration: firstly, the categories of cultural property; and secondly, the activities these instruments are applicable to.

As regards the first element, Regulations 1210 and 36 are applicable to the same objects: cultural property and other goods of archaeological, historical, cultural, rare scientific, and religious importance, including those listed in the annexes of these Regulations.²¹ The contents of these annexes are identical.²² In particular, these Regulations are applicable to those cultural goods which form an inte-

²¹ Article 3(1)(c) Regulation 1210 and Article 11-*quater*(1) Regulation 36.

²² They are also identical to the cultural property listed in the Annex to Regulation 116.

gral part of either the public collections listed in the inventories of Iraqi and Syrian museums, archives or libraries' conservation collections, or the inventories of Iraqi religious institutions.²³

Moreover, both Regulations require that the removal of cultural property from the Iraqi or Syrian territories has to be illegal. This concept is defined in two different ways. On one hand, a removal is deemed illegal when there is a reasonable suspicion that the goods have been removed from Iraq or Syria without the consent of their legitimate owner. On the other hand, a removal is illegal when there is a reasonable suspicion that the goods have been removed in breach of the laws and regulations of these countries, as well as of international law.²⁴

As regards the second element (the activities to which the EU Regulations here considered are applicable), it is possible to affirm that they concern a wide range of activities. Regulation 1210 aims to prevent 1) the import of or the introduction into the territory of the EU, 2) the export of or the removal from this same territory, and also 3) the dealing in Iraqi cultural property.²⁵ Regulation 36 aims to prevent a more specific range of activities, inasmuch as besides the import and export activities it takes into account the transfer and the brokering services²⁶ related to export and import.²⁷

The Regulation on the Introduction and the Import of Cultural Goods

Currently the regulation of the entrance of third countries' cultural property is left to the domestic law of each EU Member State. This situation has given rise to a patchwork, whereby some of them (for example Italy, the Netherlands, and Germany) have adopted national measures to be applied at the moment of import of cultural property within their territories, while others do not have specific provisions. Moreover, the existing national measures concerning import are often divergent. This patchwork has allowed the development of trafficking routes through the more vulnerable and unregulated EU Member States' borders, a phenomenon known as "port shopping". Anyone who wants to introduce or import cultural property within the EU territory may choose the EU Member State with the "most

²³ Article 3(1)(c)(i) Regulation 1210 and Article 11-*quater*(1) Regulation 36.

²⁴ Article 3(1)(c)(ii) Regulation 1210 and Article 11-*quater*(1) Regulation 36.

²⁵ Article 3(1) Regulation 1210.

²⁶ In its Article 1(b) Regulation 36 defines the expression "brokering services" such as the "negotiation or arrangement of transaction for the purchase, sale or supply of cultural objects" as well as "selling or buying" in the process of illicit art trade: the attempts at trade, assisting in trading, the actual transaction itself, the handling of objects covered by the prohibition, and assisting in the handling with such objects.

²⁷ Article 11-*quater*(1) Regulation 36.

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favourable” or “unregulated” domestic law.²⁸ Thus, cultural goods both legally or illegally exported from their country of origin may enter the EU and freely circulate within the EU territory. The only existing control will be in the case of exportation, because it will be necessary to have an export licence.

On 12 March 2019 the EU Parliament adopted, in a first reading, the text of a new Regulation on the introduction and the import of cultural goods. Its final adoption by the EU Council and its entry into force are expected within the next few months, before the end of the current legislature. The EU Commission proposed the draft of this regulation on 13 July 2017. The proposal was foreseen in the Commission Action Plan for Strengthening the Fight against Terrorist Financing, presented in 2016 and aimed at disrupting the sources of revenue used by terrorist organizations by targeting their capacity to raise funds. Moreover, this proposal responded to multiple calls for action on the part of other EU institutions²⁹ and national governments to fight against the illicit trafficking of cultural property within the EU.

The Import Regulation has two main purposes: on one hand, the safeguarding of humanity’s cultural heritage; and on the other the prevention of illicit trade in cultural goods, in particular where it may contribute to terrorist financing.³⁰ On this

²⁸ The necessity to carry out a uniform import regulation for cultural property is underlined in Paragraph 4 of the Preamble of the Import Regulation: “In view of different rules applying in Member States regarding the import of cultural goods into the customs territory of the Union, measures should be taken in particular to ensure that certain imports of cultural goods are subject to uniform controls upon their entry into the customs territory of the Union, on the basis of existing processes, procedures and administrative tools aiming to achieve a uniform implementation of [the Union Customs Code]”.

²⁹ The EU has adopted, amongst others, a number of policy documents, such as: European Commission, *Joint communication to the European Parliament and the Council: Elements for an EU regional strategy for Syria and Iraq as well as the Da’esh threat*, 6 February 2015, JOIN(2015) 2 final; European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Agenda on Security*, 28 April 2015, COM(2015) 185 final; European Parliament resolution of 30 April 2015 on the destruction of cultural sites perpetrated by ISIS/Da’esh (2015/2649(RSP)), OJ C 346, 21.09.2016, p. 55; European Commission, *Joint communication to the European Parliament and the Council: Towards an EU strategy for international cultural relations*, 8 June 2016, JOIN(2016) 29 final; and European Parliament resolution of 17 January 2019 on cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars (2017/2023(INI)), 17 January 2016, P8_TA-PROV(2019)0037. Several of these documents concern the role of the EU in situations of conflict in Iraq and Syria, as well as in the fight against terrorist financing and security issues. Others concern the role of the EU in culture and in the protection of Iraqi and Syrian cultural heritage. In all these documents, the EU considers the illicit trafficking of cultural property – especially that coming from Iraq and Syria which, due to the situations of conflict, has increased substantially. Furthermore, in these documents this illicit trafficking is determined to be a threat to Iraqi and Syrian cultural heritage, as well as a source of income for terrorist groups involved in the conflicts. Thus, the EU attaches two main purposes to the fight against the illicit trafficking of Iraqi and Syrian cultural property – on one hand it protects the relevant cultural heritage, and on the other it tries to stop the financing of terrorist groups.

³⁰ Article 1: “This regulation sets out the conditions for the introduction of cultural goods and the conditions and procedures for the import of cultural goods for the purposes of safeguarding humanity’s cultural heritage and preventing the illicit trade in cultural goods, in particular where such illicit trade could contribute to terrorist financing [...]”.

basis, the import regulation fits and enlarges the purposes of the relevant policy documents previously adopted by the EU institutions³¹ – the protection of cultural property and the fight against terrorist financing.

The Import Regulation prohibits the introduction on EU territory of cultural goods illegally removed from the country where they were created or discovered. This removal is considered illegal when it takes place in breach of the laws and regulations of the relevant country.³²

The Regulation in question applies to cultural goods, defined as: “any item which is of importance for archaeology, prehistory, history, literature, art or science as listed in the Annex”.³³ However, the Import Regulation does not apply to cultural goods which were either created or discovered in the customs territory of the EU.³⁴ As in Regulation 116, the Import Regulation’s definition of cultural goods is specified in a list contained in its Annex.³⁵ Nevertheless, it has to be noted that the two lists in the annexes do not contain the same categories of cultural goods: they only partially overlap each other, and the value and the age limit thresholds are different. Thus, once the Import Regulation comes into force, we will be faced with two different definitions of cultural goods in the EU legal framework: one at the place of import, and the other at the place of export.

The Annex to the Import Regulation contains the same categories of definitions of cultural property as foreseen in Article 1 of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property³⁶ (“1970 UNESCO Convention”) and in the Annex of the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.³⁷ The use of these already-existing lists is justified in Paragraph 7 of the Preamble

³¹ See n. 29.

³² Article 3(1).

³³ Article 2(1).

³⁴ Article 1(2).

³⁵ “(a) Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest; (b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance; (c) products of archaeological excavations (including regular and clandestine) or of archaeological discoveries on land or underwater; (d) elements of artistic or historical monuments or archaeological sites which have been dismembered; (e) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals; (f) objects of ethnological interest; (g) objects of artistic interest, such as: (i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand); (ii) original works of statuary art and sculpture in any material; (iii) original engravings, prints and lithographs; (iv) original artistic assemblages and montages in any material; (h) rare manuscripts and incunabula; (i) old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections; (j) postage, revenue and similar stamps, singly or in collections; (k) archives, including sound, photographic and cinematographic archives; (l) articles of furniture more than one hundred years old and old musical instruments”.

³⁶ 14 November 1970, 823 UNTS 231.

³⁷ 24 June 1995, 34 ILM 1322.

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of the Import Regulation, where it is explained that many third countries and most EU Member States are familiar with these categories of cultural property contained in the above-mentioned international instruments, to which a significant number of EU Member States are party.

The activities regulated by the Import Regulation are the introduction and import of cultural goods. Each of them is defined in Article 2:

- a) “introduction of cultural goods” means any entry into the customs territory of the Union of cultural goods which are subject to customs supervision or customs control within the customs territory of the Union in accordance with [the Union Customs Code];
- b) “import of cultural goods” means:
 - (i) release of cultural goods for free circulation as referred to in Article 201 of [the Union Customs Code];³⁸ or
 - (ii) the placing of cultural goods under one of the following categories of special procedures referred to in Art. 210 of [the Union Customs Code]:³⁹
 - a. storage, comprising customs warehousing and free zones,
 - b. specific use, comprising temporary admission and end-use,
 - c. inward processing.

The Import Regulation provides for two different procedures to be followed when the holder⁴⁰ of cultural property of a third EU country would either introduce or import it within the EU territory.⁴¹ In the first procedure an import licence is required, while in the second one an importer statement is necessary. Some exceptions to these procedures are provided in Article 3(4)⁴²

³⁸ “1. Non-Union goods intended to be put on the Union market or intended for private use or consumption within the customs territory of the Union shall be placed under release for free circulation. 2. Release for free circulation shall entail the following: (a) the collection of any import duty due; (b) the collection, as appropriate, of other charges, as provided for under relevant provisions in force relating to the collection of those charges; (c) the application of commercial policy measures and prohibitions and restrictions insofar as they do not have to be applied at an earlier stage; and (d) completion of the other formalities laid down in respect of the import of the goods. 3. Release for free circulation shall confer on non-Union goods the customs status of Union goods”.

³⁹ “Goods may be placed under any of the following categories of special procedures: (a) transit, which shall comprise external and internal transit; (b) storage, which shall comprise customs warehousing and free zones; (c) specific use, which shall comprise temporary admission and end-use; (d) processing, which shall comprise inward and outward processing”.

⁴⁰ The corresponding expression “holder of the goods” is defined, in Article 2(4), through a reference to Article 5(34) of the Union Customs Code, as “the person who is the owner of the goods or who has a similar right of disposal over them or who has physical control of them”.

⁴¹ Article 3(2).

⁴² “Paragraph 2 of this Article shall not apply to: a) cultural goods that are returned goods, within the meaning of article 203 [of the Union Customs Code]; b) the import of cultural goods for the exclusive purpose of ensuring their safekeeping by, or under the supervision of, a public authority, with the intent to return those cultural goods, when the situation so allows; c) the temporary admission of cultural goods, within the meaning of article 250 [of the Union Customs Code], in the customs territory of the Union for the purpose of educational, science, conservation, restoration, exhibition, digitisation, performing arts, research conducted by academic institutions or cooperation between museums or similar institutions”.

and (5).⁴³ These include: firstly, the import licence and the importer statement are not required when cultural goods of third countries, having originally been exported as EU goods from the customs territory of the Union, are returned to that territory within a period of three years and declared for release for free circulation upon application by the person concerned; secondly, when cultural goods are imported for the exclusive purpose of ensuring their safekeeping by, or under the supervision of, a public authority, with the intent to return these goods; thirdly, when cultural goods are temporarily admitted into the customs territory of the EU for educational, scientific, conservation, restoration, exhibition, digitization, performing arts, for the purpose of research conducted by academic institutions, or for the purpose of cooperation between museums or similar institutions; and finally, when cultural goods are temporary admitted into the EU customs territory to be presented at commercial art fairs, where an importer statement has been provided.

The distinction between the procedure when an import licence is required and the procedure when an importer statement is necessary is based on the relevant cultural property category of the object of the introduction or the import procedure. Article 4 requires the release of an import licence when the relevant cultural goods belong to one of the categories listed in Part B of the Annex,⁴⁴ such as archaeological objects and elements of monuments. In this case, an import licence is required to introduce or import cultural property on the EU territory. A request for an import licence has to be made to the “competent authorities”⁴⁵ by the holder of the relevant cultural property, through the electronic system foreseen in Article 8.⁴⁶ The requirement of an import licence for archaeological objects and ele-

⁴³ “An import licence shall not be required for cultural goods that have been placed under the temporary admission procedure within the meaning of Article 250 [of the Union Customs Code], where such goods are to be presented at commercial art fairs. In such cases an importer statement shall be provided in accordance with the procedure in Article 5 of this Regulation. However, if those cultural goods are subsequently placed under another customs procedure referred to in point (3) of Article 2) of this Regulation, an import licence issued in accordance with Article 4 shall be required”.

⁴⁴ “c) products of archaeological excavations (including regular or clandestine) or of archaeological discoveries on land or underwater; d) elements of artistic or historical monuments or archaeological sites which have been dismembered”. For both categories the relevant good has to be more than 250 years old.

⁴⁵ This expression is defined in Article 2(5), as “[...] the authorities designated by the Member States to issue import licences”.

⁴⁶ “Art. 8 – *Use of an Electronic System* – 1. The storage and the exchange of information between the authorities of the Member States, in particular regarding import licences and importer statements, shall be carried out by means of a centralised electronic system. In the event of a temporary failure of the electronic system, other means for the storage and exchange of information may be used on a temporary basis. 2. The Commission shall lay down, by means of implementing acts: a) the arrangements for the deployment, operation and maintenance of the electronic system referred to in paragraph 1; b) the detailed rules regarding the submission, processing, storage and exchange of information between the authorities of the Member States by means of the electronic system or by the other means, as referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(2) by [two years of the entry into force of the Regulation]. Art. 9 – *Establishment of an electronic*

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ments of monuments is justified in Paragraph 10 of the Preamble of the Import Regulation, on the basis of the fact that these categories are particularly vulnerable to pillage and destruction.

The application for an import licence has to be supported by

documents and information providing evidence⁴⁷ that the cultural goods in question have been exported from the country where they were created or discovered in accordance with the laws and regulations of that country, or providing evidence of the absence of such laws and regulations at the time they were taken out of its territory.⁴⁸

Derogations to this rule are foreseen in two cases. Firstly, when the country where the cultural goods were created or discovered cannot be reliably determined; and secondly when the relevant cultural goods left the country where they were created or discovered before 24 April 1972.⁴⁹ In these cases the application may be accompanied by supporting “documents and information providing evidence that the cultural goods in question have been exported in accordance with the laws and regulations of the last country where they were located for a period of more than five years and for purposes other than temporary use, transit, re-export or transshipment [...]”.⁵⁰

Once the application is received, the competent authority verifies whether it is complete and releases the import licence within 90 days. It may reject the application in four instances:

- a) it has information or reasonable grounds to believe that the cultural goods were removed from the territory of the country where they were created or discovered in breach of the laws and regulations of that country;
- b) the evidence required in paragraph 4 has not been provided;
- c) it has information or reasonable grounds to believe that the holder of the goods did not acquire them lawfully; or
- d) it has been informed that there are pending claims for the return of the cultural goods by the authorities of the country where they were created or discovered.⁵¹

system. – The Commission shall establish the electronic system referred to in Article 8. The electronic system shall be operational at the latest four years after the entry into force of the first of the implementing acts referred to in Article 8(2)”.

⁴⁷ The evidence may consist in an “export certificates or export licences where the country in question has established such documents for the export of cultural goods at the time of the export” (Article 4(5)). The nature of the evidence is further specified in Paragraph 12 of the Preamble of the Import Regulation with a reference to ownership titles, invoices, sales contracts, insurance documents, transport documents, and experts’ appraisals.

⁴⁸ Article 4(4).

⁴⁹ This date corresponds to the entry into force of the 1970 UNESCO Convention.

⁵⁰ Article 4(4), second part.

⁵¹ Article 4(7).

A decision to reject an application has to explain the reasons therefore and include information on the appeal procedure.⁵² Each decision to reject has to be communicated to the other EU Member States and to the EU Commission via the electronic system foreseen in Article 8.⁵³

The second import procedure concerns categories of cultural property listed in Part C of the Annex.⁵⁴ To introduce or import these categories of goods, an importer statement has to be submitted⁵⁵ by the holder of the goods via the electronic system foreseen in Article 8.⁵⁶ The importer statement has to be composed of two parts:

- a) a declaration signed by the holder of the goods stating that the cultural goods have been exported from the country where they were created or discovered in accordance with its laws and regulations of that country at the time they were taken out of its territory; and
- b) a standardised document describing the cultural goods in question in sufficient detail for them to be identified by the authorities and to perform risk analysis and targeted controls.⁵⁷

Derogations to the content of the holder declaration are foreseen in two cases: firstly when the country where the cultural goods were created or discovered cannot be reliably determined; and secondly when the cultural goods left the country where they were created or discovered before 24 April 1972.⁵⁸ In these cases the declaration may be that “the cultural goods in question have been exported in accordance with the laws and regulations of the last country where they were located for a period of more than five years and for purposes other than temporary use, transit, re-export or transhipment [...]”.⁵⁹

⁵² Article 4(8).

⁵³ Article 4(10).

⁵⁴ “a) rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interests; b) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance; e) antiquities, such as inscriptions, coins and engraved seals; f) objects of ethnological interest; g) objects of artistic interest, such as: (i) pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand); (ii) original works of statuary art and sculpture in any material; (iii) original engravings, prints and lithographs; (iv) original artistic assemblages and montages in any material; h) rare manuscripts and incunabula; i) old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections”. For all categories the relevant good has to be more than 200 years old.

⁵⁵ Article 5(1).

⁵⁶ Article 5(2). For the description of the electronic system, see n. 46.

⁵⁷ Ibidem.

⁵⁸ This date corresponds to the entry into force of the 1970 UNESCO Convention.

⁵⁹ Article 5(2).

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As regards the standardized document describing the cultural goods in question, in Paragraph 15 of the Preamble a reference is made to the Object ID standard, which was elaborated by the Getty Information Institute in 1997. Nowadays, the International Council of Museums (ICOM) has the licence and right to promote the use of the Object ID standard, which is a well-recognized instrument in the fight against the illicit trafficking of cultural property. In fact, UNESCO generally recommends the use of this standard and the World Customs Organization and Interpol base their work on it.

Conclusions

On the basis of the legal framework described above, cultural goods – unless they can be classified as national treasures of one EU State Member or are coming illegally from Iraq and Syria – can circulate freely within the EU territory and are controlled only at their exit from the external EU custom borders. This control is carried out even on cultural property belonging to third countries which previously entered within the EU custom borders, because for their exit the release of an export licence is required. The export licence may be refused only for cultural goods that are national treasures of an EU Member State. When there is a reasonable suspicion that Iraqi and Syrian cultural property illegally entered into the EU territory, an export licence cannot be released for their exportation. Otherwise, for any other cultural property, even for that coming from third countries in situations of armed conflict, such as Mali, Yemen, and Libya, the release of the export licence may be required.

The final adoption and the entry into force of the Import Regulation by the EU Council are expected within the next few months. Then the EU legal framework concerning the fight against the illicit trafficking of cultural property will be more complete and efficient. In fact, the patchwork of domestic legislation that currently exists and is employed for the entrance of third countries' cultural goods within the EU territory will be substituted by the Import Regulation.

The EU legal framework which will be in place after the entry into force of the Import Regulation will be applicable to cultural property whether it comes from third countries in a situation of peace or from third countries in a situation of armed conflict. Moreover, the EU legal framework will be applicable not only to the illicit trafficking of cultural property carried out by terrorist groups to finance their activities, but in general to every kind of illicit trafficking, independent of who is the subject carrying it out.

However, enthusiasm for this new Regulation has to be mitigated, because even though – as foreseen in Article 16 of the Import Regulation – it will immediately enter into force, several of its pivotal provisions will not enter into force for a considerable length of time. In fact, it is established that the import ban for the cultural goods listed in Part A of the Annex, i.e. those that were illegally removed

from the territory of the country where they were created or discovered, will enter into force only 18 months after the date of entry into force of the Import Regulation. In the same vein, the entry into force of the requirements for an import licence and for an importer statement, as well as the establishment of the electronic system, are foreseen to be operational at the latest six years after the entry into force of the Regulation. Moreover, several EU Commission interventions are needed for the practical application of the Import Regulation. Furthermore, it has to be underlined that the above-mentioned acts of implementation will be carried out by the new EU Commission a few months after the upcoming elections to the EU Parliament (May 2019). Thus, the speed with which these acts will be carried out will also depend on the political priorities of the new EU Commission. In this way, an in-depth assessment of this new EU legal framework will be possible only in about 10 years. Nevertheless, it seems possible to already make some preliminary conclusions.

First of all, as regards the speed of the implementation of the Import Regulation, even though it is understandable that EU Member States and EU institutions have asked for some time in order to establish the necessary operational framework for the application of this new regulation, the time period “at the latest six years” seems to be too long, especially because, as mentioned above, this instrument is supposed to provide a response to the already ongoing illicit trafficking of cultural property coming from situations of armed conflict, especially where this trafficking is one of the sources of terrorist groups’ financing. Iraqi and Syrian cultural property are already protected by Regulations 1210 and 36, but there are also other countries where cultural objects are currently in danger because of an on-going armed conflict in which terrorist groups are operating, such as Mali, Yemen, and Libya. Thus, it is to be hoped that the EU Member States and institutions will work hard and diligently to make the Import Regulation concretely operational as soon as possible.

Secondly, the protections that Regulations 1210 and 36 establish for Iraqi and Syrian cultural property are more comprehensive than those offered by the other regulations and the TFEU. In fact, Regulations 1210 and 36 also prohibit the dealing with or the transfer of Iraqi and Syrian cultural property, and Regulation 116 makes it necessary to obtain an export licence to export cultural goods from the EU territory. Even if the Import Regulation will establish a uniform regulation for the introduction and import of cultural property into EU territory, on the basis of the TFEU any cultural goods legally or illegally coming from third countries may circulate freely on this territory.

Thirdly, it has to be noted that in many of the Regulations comprising the EU legal framework under examination, there are no provisions on what the custom authorities (i.e. national custom authorities at the external borders of the EU) may do in the event they uncover an attempt to illegally introduce or export a third countries’ cultural property, including that from Iraq and Syria. Do they have the power

to seize the relevant cultural goods? If so, does the relevant EU Member State have to return them to their country of origin? When does this restitution have to take place? The only EU legal instrument taking this point into consideration is the second sentence of Paragraph 1 of Article 3 of the Import Regulation, which provides that the “customs authorities and competent authorities shall take any appropriate measure when there is an attempt to introduce [illegally] cultural goods [listed in Part A of the Annex]”. Even though it is understandable that agreement on this point has been very hard to attain, it would be preferable to provide a more detailed provision. Thus, it has to be concluded that even if the export rules are common to all EU Member States, and the import rules will be soon common as well, the decision on what consequences are applicable to their violation is left, once again, to each Member State and hence a new patchwork of the relevant domestic legislations, with all the well-known consequences thereof, will appear soon.

Finally, it seems possible to extend this reasoning to the penalties applicable to violations of Regulations 116, 1210, and 36, as well as to the Import Regulation when it will enter into force. Each regulation provides that each EU Member State shall establish penalties applicable for violations of their provisions.⁶⁰ Thus, in some fashion the patchwork situation mentioned above will continue. One person may decide to ask for the export or for the import of cultural goods illegally coming from a third country via the competent custom authorities of the EU Member State with the least onerous measures and penalties for the violation of the relevant regulation. Nevertheless, while this situation is more understandable for penalties – because they concern criminal law, which does not fall within the EU competence – custom authorities’ measures are also of an administrative nature and thus they fall within the EU competence.

References

- Carducci G., *The Growing Complexity of International Art Law: Conflict of Laws, Uniform Law, Mandatory Rules, UNSC Resolutions and EU Regulations*, in: B.T. Hoffman (ed.), *Art and Cultural Heritage: Law, Policy and Practice*, Cambridge University Press, Cambridge 2009.
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 14 November 1970, 823 UNTS 231.
- Council Regulation (EC) No. 116/2009 of 18 December 2008 on the export of cultural goods (codified version), OJ L 39, 10.02.2009, p. 1.

⁶⁰ Article 9 (Penalties) of Regulation 116 provides: “The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented”. Article 11 (Penalties) of the Import Regulation foresees: “Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented [...]”. Similar provisions are foreseen also in Regulations 1210 and 36.

- Council Regulation (EC) No. 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No. 2465/96, OJ L 169, 8.07.2003, p. 6.
- Council Regulation (EU) No. 36/2012 of 18 January 2012 concerning restrictive measures in view of the situation in Syria and repealing Regulation (EU) No. 442/2011, OJ L 16, 19.01.2012, p. 1.
- Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No. 1024/2012 [Recast], OJ L 159, 28.05.2014, p. 1.
- European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The European Agenda on Security*, 28 April 2015, COM(2015) 185 final.
- European Commission, *Joint communication to the European Parliament and the Council: Elements for an EU regional strategy for Syria and Iraq as well as the Da'esh threat*, 6 February 2015, JOIN(2015) 2 final.
- European Commission, *Joint communication to the European Parliament and the Council: Towards an EU strategy for international cultural relations*, 8 June 2016, JOIN(2016) 29 final.
- European Parliament resolution of 17 January 2019 on cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars (2017/2023(INI)), 17 January 2016, P8_TA-PROV(2019)0037.
- European Parliament resolution of 30 April 2015 on the destruction of cultural sites perpetrated by ISIS/Da'esh (2015/2649(RSP)), OJ C 346, 21.09.2016, p. 55.
- European Parliament legislative resolution of 12 March 2019 on the proposal for a regulation of the European Parliament and of the Council on the import of cultural goods (COM(2017)0375 – C8-0227/2017 – 2017/0158(COD)), P8_TA-PROV(2019)0154.
- Frigo M., *Approaches Taken by the Security Council to the Global Protection of Cultural Heritage: An Evolving Role in Preventing Unlawful Traffic of Cultural Property*, "Rivista di diritto internazionale" 2018, Vol. 101(4).
- Frigo M., *Circulation de biens culturels, détermination de la loi applicable et méthodes de règlement des litiges*, Académie de Droit International de La Haye, La Haye 2016.
- Gould E., *The EU's Parting Gift to the UK Art Market?*, Blog of the Institute of Art and Law, 1 April 2019, <https://ial.uk.com/the-eus-parting-gift-to-the-uk-art-market/> [accessed: 08.04.2019].
- Hausler K., *Cultural Heritage and the Security Council: Why Resolution 2347 Matters*, "QIL (Questions of International Law)", 31 March 2018, <http://www.qil-qdi.org> [accessed: 12.03.2019].
- Jakubowski A., *Resolution 2347: Mainstreaming the Protection of Cultural Heritage at the Global Level*, "QIL (Questions of International Law)", 31 March 2018, <http://www.qil-qdi.org> [accessed: 12.03.2019].
- Jakubowski A., Jakubowski O., *Poland*, in: J.A.R. Nafziger, R. Kirkwood Paterson (eds.), *Handbook on the Law of Cultural Heritage and International Trade*, Edward Elgar, Cheltenham 2014.
- Kretschmer B., *Transnational Organised Crime and Cultural Property*, in: P. Hauck, S. Peterke (eds.), *International Law and Transnational Organised Crime*, Oxford University Press, Oxford 2016.

GENERAL ARTICLES

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- Proposal for a regulation of the European Parliament and of the Council on the import of cultural goods, 2017/0158 (COD).
- Roodt C., *Private International Law, Art and Cultural Heritage*, Edward Elgar, Cheltenham 2015.
- Scott R.M.G., *The European Union's Approach to Trade Restrictions on Cultural Property: A Trendsetter for the Protection of Cultural Property in Other Regions?*, "Santander Art and Culture Law Review" 2016, Vol. 2(2).
- Scovazzi T., *Evolutionary Trends as Regards the Return of Removed Cultural Property*, in: L. Pérez-Prat Durbán, A. Lazari (eds.), *El tráfico de bienes culturales*, Tirant lo Blanch, Valencia 2015.
- Treaty on the Functioning of the European Union (consolidated version), OJ C 326, 26.10.2012, p. 47.
- UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, 24 June 1995, 34 ILM 1322.
- United Nations Security Council Resolution No. 1483, 22 May 2003, S/RES/1483 (2003).
- United Nations Security Council Resolution No. 2199, 12 February 2015, S/RES/2199 (2015).
- United Nations Security Council Resolution No. 2253, 17 December 2015, S/RES/2253 (2015).
- United Nations Security Council Resolution No. 2347, 24 March 2017, S/RES/2347 (2017).
- Urbinati S., *Improving the Principle of Cooperation against Illegal Movement of Cultural Property*, "Transnational Dispute Management" 2013, Vol. 10(5).
- Urbinati S., *The Evolving Role of the United Nations Security Council and the Protection of Cultural Heritage in the Event of Armed Conflict*, "QIL (Questions of International Law)", 31 March 2018, <http://www.qil-qdi.org> [accessed: 12.03.2019].