

**European experts group on mobility of collections**  
**Sub-working group on the Prevention of thefts and**  
**Illicit trafficking of cultural goods**

***IMPLEMENTATION OF DUE DILIGENCE***

**0. Preamble**

As the cultural heritage of a nation, within and outside the European Union frontiers, is its best ambassador in promoting the understanding and respect of its civilization, it is of fundamental importance to protect this heritage for the sake, not only of the nation of origin, but also for the preservation of European cultural coherence.

Thus the EU Member States are concerned about the illicit trade in cultural goods and the irreparable damage caused by it, both to the objects themselves and to the national cultural heritage, but also to the heritage of all peoples particularly by the pillage of archaeological sites. To contribute to the fight against illicit trafficking and trade of cultural goods, Member States should adopt the minimum common legal and ethical standards as these are provided by the legal and ethical framework at European and International level.

In a European Union without internal frontiers, in which the free movement of cultural goods is ensured in accordance with the provisions of the Treaty, the mobility of collections is of great priority, as it creates bridges between Europe's common heritage and helps citizens in Europe to understand and enjoy the diversity of their common European cultural heritage. To realize this goal it is, therefore, essential, to promote best practices while fully respecting the Member States' legal framework to protect national treasures possessing artistic, historic or archaeological value.

Since the true value of the cultural property can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting, it is absolutely essential for every Member State to become increasingly aware for the moral obligations to respect its own cultural heritage and that of other nations. It is therefore important Member States to contribute to the prevention of theft and illicit trafficking of cultural goods by adopting one of the best practices which is the *due diligence*, as this is described in the provisions of ICOM Code of Ethics and of the International 1970 UNESCO Convention and UNIDROIT Convention. To this effect cultural institutions, museums, libraries, archives and collectors/possessors should ensure that their collections are built up in accordance with universally recognized moral principles. Their *due diligence* should be extended also when they are borrowing or lending objects for an exhibition. Alike dealers/ auction houses should ensure they apply ethical standards in their transactions within and outside European Union frontiers.

Due diligence is establishing the full history of a cultural object from discovery or production and therefore consists one of the main means for preventing the loss of irreplaceable archaeological, historical and scientific information and thus protecting the cultural heritage of a state.

**0.1. Action taken within the sub-group 4**

Greece has been commissioned by the sub-group 4 co-ordinators to assess the issue of due diligence and the ways it is implemented by the private and public cultural institutions

in the European member states, the collectors and the auction houses and art dealers respectively. To reach to conclusions the following steps were followed:

Following the gathering of responses provided by the member states regarding the first questionnaire

1. Greece first step selected all the relevant data related to matters of due diligence. The initial intention was to assess whether those data were sufficient enough in order to reach constructive conclusions for the practice of due diligence by the member states. However, it was soon realised that a more detailed and focused questionnaire was necessary.
2. Greece, prepared a draft questionnaire in January 2010 and submitted it to the sub-group members for their constructive comments and possible amendments, both in terms of content and structure, discussed during the meeting on 20<sup>th</sup> January 2010, in Brussels. Following the comments by the members of the sub-groups, the questionnaire was amended and forwarded to the Commission and the sub-group co-ordinators for circulation among the member states at the end of January 2010. Detailed description of the questionnaire regarding its aims and structure you can find further below.
3. Collection of responses followed in two phases: i) during February and till 15<sup>th</sup> March 2010. By then, 17 member states have replied and thus a preliminary analysis of the questionnaire was made possible, ii) after the last meeting in Brussels, on 16<sup>th</sup> March, 4 more member states have responded, whereas 2 others sent amendments and additions.
4. Simultaneously, a compiling of a corpus of legal texts, international and national codes of ethics as well as other relevant documents regarding due diligence was in progress. The purpose of this compiling was twofold: i) to extract what can be the current practice regarding matters of due diligence in European and international level, by making inferences from the existing legislation, ii) to use the ethical frame of the most prominent legal texts (i.e. the UNIDROIT Convention 1995, article 4, or the *Combating Illicit Trade: Due diligence guidelines*, 2005, section 4), in order to be better informed about the focus of our research on due diligence practice among European member states.

Thus, in Part 1, the legal and ethical framework on due diligence is briefly assessed, whereas in Part 2, the results of the relevant due diligence questionnaire are synthetically presented in order to be able to reach some basic conclusions. The overall aim is, of both Part 1 and Part 2, to contribute to the drafting of relevant recommendations on how the member states can better apply due diligence practice as a deterrent to illicit trade of cultural goods at European level.

## **PART 1 - The legal and ethical framework of due diligence**

To comprehend the importance of the implementation of *due diligence* by cultural institutions, museums, libraries, archives and collectors/possessors when obtaining a new acquisition or borrowing or lending cultural goods in a temporary exhibition, as well as its implementation by dealers/ auction houses in their transactions, it was considered necessary and useful to search the European and international legal texts, international codes of ethics and other similar documents and select the provisions concerning *due diligence*.

The study and comparison of the relevant provisions and references led to the conclusion that there are some similarities in defining *due diligence* in the provisions of ICOM Code of Ethics (article 2.3 and Glossary), the UNIDROIT Convention (articles 4 and 6.2) and the

1970 UNESCO Convention (articles 6,7 and 10). The 1970 Convention further specifies the obligations of the antique dealers for whom important provisions are also contained in the International Code of Ethics for Dealers in Cultural Property (articles 1-4), endorsed by the 30th General Conference of UNESCO, 1999. Other documents like “Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material” of DCMS, UK, 2005, and “Museum Association’ s Code of Ethics”, 2004, contain also useful guidelines to professionals when acquiring an cultural object.

All the aforementioned provisions are the best explicit texts and although the UNIDROIT Convention has not been ratified by many EU Member States its relevant provisions on *due diligence* have been proposed as a modification of the Directive 93/7/EEC during the 2<sup>nd</sup> meeting of the *ad hoc* Working Group set up for its modification within the framework of the Return and Export Advisory Committee, which (the latter) will further discuss the modification taking also into account the report on the matter of the MOC WG.

## **PART 2- Assessment of the questionnaire**

### **2.1. Brief outline of structure and purpose of the questionnaire.**

The questionnaire (**Appendix**) on due diligence includes thirty three (33) qualitative questions developed in three (3) sections:

- **SECTION 1:** 16 questions focusing on due diligence practice applied by museums (state and private ones), libraries and archives
- **SECTION 2:** 8 questions focusing on due diligence practice **performed** by collectors or/and possessors
- **SECTION 3:** 9 questions focusing on due diligence procedure **followed** by art dealers and/or auction houses

The questions are grouped in eight (8) main research topics that are repeated with consistency in all three parts of the questionnaire. These topics are:

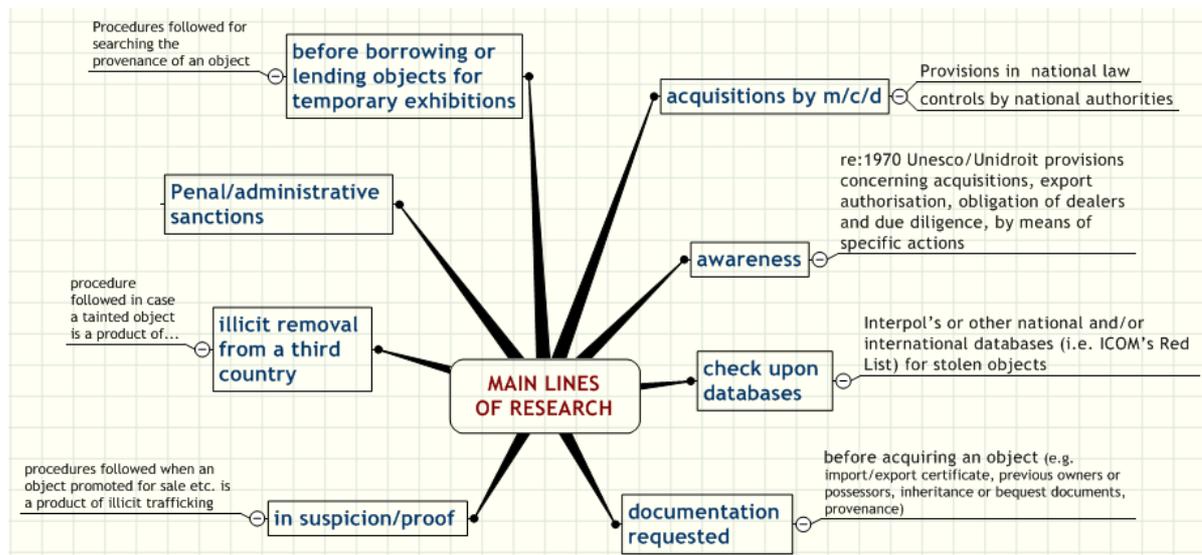
- Provisions in a national law concerning acquisitions by museums, libraries and archives [see Questions 1, 2, 3], by collectors/possessors [see Questions 17, 18] and by art dealers/auction houses [see Question 25]
- Awareness of museums about the 1970 Unesco and the 1995 Unidroit provisions concerning acquisitions, export authorisation, obligation of dealers and due diligence by means of specific actions [see Questions 4, 5, 27, 28]
- Use of Interpol’s or of other national and/or international databases (i.e. ICOM’s Red List) for stolen objects for acquisitions of objects by museums [see Questions 6, 7], collectors/possessors [see Question 24] and art dealers/auction houses [see Question 33]
- Type of documentation requested before acquisition of an object (e.g. import/export certificate, previous owners or possessors, inheritance or bequest documents, provenance) [see Questions 8, 19]
- Procedures followed in suspicion or/and proof that an object promoted for sale etc. is a product of illicit trafficking [see Questions 9, 10, 11, 20, 21, 30, 31]
- Procedure followed in case a tainted object is proved to have been illicitly been removed from a third country [see Questions 12, 22]
- Penal/administrative sanctions [see Questions 13, 23, 29, 32]
- Procedures followed for searching the provenance of an object before borrowing it or lending it for a temporary exhibition [see Questions 14, 15, 16]

The questionnaire was answered by twenty one (21) member states, namely: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Romania, Spain and United Kingdom.

From those, Malta replied in only the first part of the questionnaire.

The six (6) member states that have not responded are: Bulgaria, Ireland, Poland, Slovakia, Slovenia, Sweden.

### CHART OF 8 MAIN RESEARCH TOPICS



Many questions required a categorical YES/NO answer, supplemented by a request for further clarification. Some questions have been entirely open-ended. In all cases, however, we tried to assess the quality of the answer and created a categorical YES/NO answer, with some intermediate variations, so that a statistical analysis can also be possible apart from the qualitative assessment of the gathered legal and practical information.

In what follows, we provide a synopsis of the data gathered from all thirty three questions and our concluding remarks. We note, however, that for a more thorough review of all the responses and for an understanding of the different provisions given by each member state, one can read their complete answers gathered in the Appendix. We should point out, however, the responses of the member states differ in terms of thoroughness, as some member states provide detailed descriptions and others are more laconic. Nonetheless, in most cases the responses are clear and non-ambiguous. In the non clear cases, we classified the specific answer as in “Need Further Clarification”. When the question is left unanswered, then this field is categorised as “No Response”.

After this synthetic presentation, a drafting of recommendations concerning due diligence is presented. As a preamble, however, we should note that it is not always clear who has been the person or authority that completed the fields of questionnaire by each member state. Therefore as **a general recommendation**, we suggest that in a following such a cross-checking of the data gathered should be done by each member state and with the collaboration of all competent authorities on this matter (i.e. Ministries of Culture, of Justice, of Finance etc).

**A. For Museums (State or Private)**

**Q1. Are there provisions in a national law concerning acquisitions by museums, libraries and archives?**

<b>AUSTRIA</b>	NO
<b>BELGIUM</b>	YES
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	NO
<b>DENMARK</b>	YES
<b>ESTONIA</b>	YES
<b>FINLAND</b>	YES
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES
<b>GREECE</b>	YES
<b>HUNGARY</b>	NO

<b>ITALY</b>	NO
<b>LATVIA</b>	YES
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	YES partly
<b>MALTA</b>	YES
<b>NETHERLANDS</b>	NO for museums YES for import control/return of cultural goods
<b>PORTUGAL</b>	YES
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES
<b>UK</b>	YES

We took into consideration 21 answers. Out of the 21, thirteen (13) countries have defined national framework regarding acquisitions by museums and one (1) more, that has provisions on a community level (both Flemish and French Parliament); that is why Belgium's response was included in the "YES" answer category. Some of the "YES" countries (Malta, Germany, Spain) did not describe the exact provisions in practicing due diligence for acquiring objects, but have offered general observations. France is considered in the "YES" answers but is based on practice not on legislation. Luxembourg is in the "YES PARTLY" category, as its response refers only to provisions for archives and libraries. The Netherlands has been considered as "NO" response specifically for museums, but "YES" for implementation of provisions of 1970 UNESCO Convention.

**Conclusion:** Overall, more than half of the member states have provisions concerning acquisitions by museums. This is a good indication that the matter of due diligence practice is taken seriously into consideration within EU. Evidence is less conclusive regarding acquisitions by libraries and archives. Notably, only five (5) member states have mentioned specifically their policies regarding libraries and archives (see Denmark, Finland, Latvia, Luxembourg, Romania, Spain).

**Recommendation:** Transparency into the acquiring process must be promoted within EU museums, libraries and archives. Incorporation of relevant terms in the acquisition policies documents of these institutions is strongly recommended, particularly if this is not a requirement/precondition by the accreditation schemes that are in force by a member state.

**Q2. Is there a control by a national authority of the acquisition procedures by a museum, library, archive?**

<b>AUSTRIA</b>	NO
<b>BELGIUM</b>	YES
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	YES

<b>DENMARK</b>	NO
<b>ESTONIA</b>	NO
<b>FINLAND</b>	NO
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES

<b>GREECE</b>	YES
<b>HUNGARY</b>	NO
<b>ITALY</b>	YES
<b>LATVIA</b>	YES
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	NO

<b>MALTA</b>	NO
<b>NETHERLANDS</b>	YES
<b>PORTUGAL</b>	YES
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES
<b>UK</b>	NO

We took into consideration 21 answers; Out of the 21 were 12 answers were “YES” and 9 “NO”. From the 12 “YES” answers for the control by a national authority, 2 are not specific: Germany does not provide specific explanation and Czech Republic gives information only about the seller’s obligation and not about the national authority that provides control for acquisitions. Belgium seems to have a very functional and efficient system, based on the accreditation of museums, organised at the level of the French and Flemish Community. Portugal also has in force a central system of acquisition control for the 35 dependent by the Portuguese Institute of Museums and Conservation museums, but the Portuguese Museum Framework Law (Law N° 47/2007, of August 19<sup>th</sup>) is applicable to all museums. A brief description of the acquisition procedure is a useful addition of the Portuguese response.

**Conclusion:** Generally speaking, the evidence is not very conclusive and more effort must be put in extracting more detailed information by each member state regarding the control of acquisitions by museums, libraries and archives, by one or more national competent authorities as well as the synergies that develop between them. From the data collected, it seems that very few member states have a national authority for controlling this procedure.

**Recommendation:** As the control of acquisition by an authority is not a norm, member states should make an effort to have an overview of acquisition procedure

**Q3. Have the provisions of ICOM’s Code of Ethics concerning acquisition been embodied in a national law**

<b>AUSTRIA</b>	NO
<b>BELGIUM</b>	YES
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	NO
<b>DENMARK</b>	YES
<b>ESTONIA</b>	YES
<b>FINLAND</b>	NO
<b>FRANCE</b>	NO
<b>GERMANY</b>	NO
<b>GREECE</b>	YES

<b>HUNGARY</b>	NO
<b>ITALY</b>	YES
<b>LATVIA</b>	YES
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	NO
<b>MALTA</b>	NO
<b>NETHERLANDS</b>	NO
<b>PORTUGAL</b>	YES
<b>ROMANIA</b>	NO
<b>SPAIN</b>	NO
<b>UK</b>	NO

We took into consideration 21 answers; out of the 21, 8 were “YES” and 13 “NO”.

**Conclusion:** The higher rate of “NO” answers, however, must not be taken necessarily at face value, for it might mean that the member states have not only embodied the provisions of ICOM’s Code of Ethics in their national laws, but have gone further into taking specific measures for the control of acquisitions.

Moreover, not only the Code of Ethics for museums is relevant in this study, for documents as well as collections of books are also vulnerable to theft and illegal trade. Thus, the

spectrum of the question should have been wider, in order to take into consideration other Codes of Ethics as well, such as the International Federation of Library Associations (IFLA) Rules of Procedure<sup>1</sup> and the International Council of Archives Code of Ethics<sup>2</sup>. The relative easiness in purchasing books and documents potentially under enhanced protection in street markets or bookshops, compared to other categories of cultural goods, makes their illegal trade easier. Thus a possible recommendation could be...

**Recommendation:** Member states should adopt into their national laws general provisions addressed by all relevant to Museums, Libraries and Archives Codes of Ethics regarding matters of due diligence (of ICOM, IFRA, ICA).

**Q4. Are the museums made aware by the national authority or body about the 1970 Unesco provisions concerning acquisitions, export authorisation and obligation of dealers (art. 6, 7, 10)?** a) If yes, please specify in which way (i.e. seminars, circulars, guidelines, etc.); b) Please state the level of application of these articles (6, 7, 10) and the tools for adhering to the Convention. Please give examples

<b>AUSTRIA</b>	not ratified
<b>BELGIUM</b>	YES
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	NO
<b>DENMARK</b>	YES
<b>ESTONIA</b>	NO
<b>FINLAND</b>	YES
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES
<b>GREECE</b>	YES

<b>HUNGARY</b>	YES
<b>ITALY</b>	NO
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	not ratified
<b>MALTA</b>	YES
<b>NETHERLANDS</b>	YES
<b>PORTUGAL</b>	YES
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES
<b>UK</b>	YES

We took into consideration 21 answers; out of the 21, 14 were “YES”, 5 “NO” and 2 “NOT RATIFIED”. Cyprus answered “NO”, because the private museums are not informed about the Convention, whereas the state ones are.

Most of the EU Member States have ratified or accepted the Unesco Convention “On the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris 1970). Only five member states have not done so (Austria, Luxembourg, Malta, Ireland, Latvia). 16 ms have ratified the Convention, 3 accepted it (Netherlands, Romania, UK) and 3 have notified accession (Slovenia, Czech Republic, Slovakia), only very few of them inform their museums about its provisions on acquisitions, export authorisation and obligations of dealers, all of them very important provisions for the implementation of due diligence.

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<sup>1</sup> See <http://www.ifla.org/files/hq/ifla-rules-of-procedure-en.pdf>

<sup>2</sup> See <http://www.ica.org/sites/default/files/Ethics-EN.pdf>

**Conclusion:** From the collected answers, we observe that good practice regarding due diligence is applied by at least ten member states (Belgium, Finland, Greece, Hungary, Lithuania, Netherlands, Romania, Spain, UK) although there is a varied degree of transposition of the Convention provisions into national laws. Actions that are undertaken by one of more member states, are such as the following ones (for detailed review of these actions, see the entries of each member in the Appendix):

- issuing of licenses for export (to third countries) of cultural goods, specific provisions for the return of cultural goods, enhancement of awareness regarding the illicit traffic of specific archaeological and cultural objects at higher risk (i.e. antiquities from Afghanistan, cultural spoils of World War II, intensification of cooperation and information provisions to dealers, on-line availability of information on the relevant legislation, sanctions for breaching the provisions of the Convention, terms for granting permission of possession or ownership of cultural goods to possessors or collectors, circulation of leaflets and oral consultation to museum curators, translation of ICOM Ethics of acquisition in a national language, cooperation of cultural authorities with national customs offices, enhancement of IT facilities for the protection of cultural heritage (such as direct access for customs to the database of export licences of cultural goods, the creation of electronic licensing, connecting the present databases of classified, exported and stolen cultural goods, adaptation of specialised stolen art database software, implementation of a specific communication strategy for the general public, the art traders, supervisors and cultural heritage institutions which have included brochures on cultural legislation, several seminars for the art trade and cultural heritage institutions, brochures for the general public on proper registration and photo documentation of cultural goods, as well as media attention (see Netherlands) or/and the issuing of specific national guidance for museums such as the one presented by UK-DCMS in 2005 entitled 'Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material', as well as the 'Guidance for Dealers and Auctioneers in Cultural Property' issued by UK-DCMS in 2004.

However, very few member states (Greece, Spain, Latvia, Italy) issue an import certificate for cultural goods. Thus a possible recommendation, also provided recently by a committee of experts in Finland could be:

**Recommendation:** The need of import legislation in the member states should be examined along with the introduction of an import certificate of cultural goods by all member states, as well as dispatch certificate from one to other member states, based on article 36 of the Treaty of Rome.

**Q5. Are the museums made aware by the national authority or body of the Unidroit provisions, on due diligence (article 4)? (Note: for member states that have ratified or accepted the Convention)**

<b>AUSTRIA</b>	not ratified
<b>BELGIUM</b>	NO
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	Not ratified
<b>DENMARK</b>	Not ratified

<b>ESTONIA</b>	Not ratified
<b>FINLAND</b>	YES
<b>FRANCE</b>	NO
<b>GERMANY</b>	YES
<b>GREECE</b>	YES
<b>HUNGARY</b>	YES
<b>ITALY</b>	YES
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	YES

LUXEMBOURG	NO
MALTA	YES
NETHERLANDS	NO
PORTUGAL	YES

ROMANIA	YES
SPAIN	NO
UK	not ratified

We took into consideration 21 answers; out of the 21 answers, 9 were “YES”, 5 “NOT RATIFIED”, and 7 “NO”.

**Conclusion:** The Unidroit Convention is ratified by the following 11 member states: Cyprus, Finland, Greece, Hungary, Italy, Lithuania, Portugal, Romania, Slovakia, Slovenia, Spain. Germany and Malta, although they have not ratified the Unidroit Convention, answered positively in the due diligence questionnaire that the museums are informed of the *due diligence* provisions of the Unidroit Convention. The other five countries that have answered positively are Finland, Greece, Italy, Lithuania and Romania.

In some countries the incorporation of the Unidroit Convention into their national laws meant that cooperation between national authorities has been intensified (Finland), training for policemen, customs officers and museum security guard has been provided systematically (Hungary), creating and increasing awareness of the public and decision makers has also been taken into consideration (Hungary), whereas in others the non-adherence of possessors and owners to provisions regarding due diligence practice in acquisitions of cultural goods brings forward certain sanctions (Greece).

Still, we cannot claim that the answers provided are conclusive and further clarifications could be provided by most member states.

**Recommendation:** Member states should develop a better understanding of the Unidroit Convention, for it provides a very important legal framework for the protection of cultural goods, and in relation to the matter of this study [due diligence practice].

Although still many member states have not ratified the Unidroit Convention, this should not necessarily be a deterrent for adopting the ethical framework of the Convention as a guiding principle for the matter of acquisitions of cultural goods and thus the practice of due diligence.

**Q6. Do museums seek attestation from Interpol’s or other national and/or international databases (i.e. ICOM’s Red List) for stolen objects before proceeding with acquiring an object?**

AUSTRIA	NO
BELGIUM	NO
CYPRUS	NO
CZECH REPUBLIC	NO
DENMARK	YES
ESTONIA	NO
FINLAND	YES
FRANCE	YES
GERMANY	YES
GREECE	YES

HUNGARY	YES
ITALY	NO
LATVIA	NO
LITHUANIA	YES
LUXEMBOURG	----
MALTA	NO
NETHERLANDS	YES
PORTUGAL	YES
ROMANIA	NO
SPAIN	YES
UK	YES

We took into consideration 21 answers. Out of the 21, 11 were “YES”, 9 “NO” and 1 member state did not give a specific answer.

**Conclusion:** From the answers collected we observe that although many member states seek attestations from databases for stolen objects before proceeding with the acquisition of an object, still there are many member states that do not or when they do they get information not from the Interpol databases but from alternative private ones that have not always been proved very reliable (i.e. the Art Lost Register).

However, as the questionnaire was addressed to central authorities of the member states (Ministries), we cannot be certain about the practice followed by each individual museum.

**Recommendations:** 1] Member states are advised to seek attestation from more than one databases for stolen objects before proceeding with acquisition of an object. The Interpol database is strongly recommended as a reliable source of information and member states should put special effort to feed it with updated information.

2] Member states should also make sure that their data is correctly incorporated into the Interpol’s database, by checking regularly the incoming of new information, by means of tools provided by the Interpol headquarters (provisions of usernames and passwords to authorised users).

3] In a future study, a similar question should be addressed directly to museum institutions in order to record their own practices on the matter with more accuracy.

**Q7. Do the museums, libraries or/and archives have access to national databases for stolen objects?**

AUSTRIA	NO
BELGIUM	NO/YES
CYPRUS	NO
CZECH REPUBLIC	YES
DENMARK	NO
ESTONIA	NO
FINLAND	NO
FRANCE	NO
GERMANY	YES
GREECE	YES

HUNGARY	YES
ITALY	YES
LATVIA	NO
LITHUANIA	YES
LUXEMBOURG	NO
MALTA	NO
NETHERLANDS	NO
PORTUGAL	YES
ROMANIA	YES
SPAIN	YES
UK	NO

We took into consideration 21 answers. Out of the 21, 9 were “YES”, 11 “NO” and 1 “NO/YES” answer (see Belgium). Although UK and Austria answers “NO” because there is no national database, museums, libraries and archives have access to other available domestic databases. Similarly, in Belgium although museums have no direct access to the police ran national database on stolen art (ARTIST), they can always have a specific work checked by the police officers responsible for the database.

**Conclusion:** On-line access to national databases for stolen cultural goods and so benchmarking paradigms for this matter are provided by Hungary and Portugal.

**Recommendation:** Member states should further discuss the ethical and practical aspects of access to national or international databases of stolen objects by museums, libraries and

archives. Access should be encouraged and enhanced, if museums, libraries and archives, through authorised personnel, had a code of access to them, following Interpol's recent example.

**Q8. What documentation is requested before acquiring an object? (e.g. import/export certificate, previous owners or possessors, inheritance or bequest documents, provenance).**

<b>AUSTRIA</b>	NO
<b>BELGIUM</b>	YES
<b>CYPRUS</b>	YES
<b>CZECH REPUBLIC</b>	YES
<b>DENMARK</b>	YES potentially
<b>ESTONIA</b>	YES
<b>FINLAND</b>	YES
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES potentially
<b>GREECE</b>	YES

<b>HUNGARY</b>	YES
<b>ITALY</b>	need more clarification
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	----
<b>MALTA</b>	YES
<b>NETHERLANDS</b>	YES potentially
<b>PORTUGAL</b>	YES
<b>ROMANIA</b>	NO
<b>SPAIN</b>	YES
<b>UK</b>	YES

We took into consideration 21 answers. There were 14 "YES", 3 "YES POTENTIALLY", 1 "NEED FURTHER CLARIFICATION", 2 "NO", 1 "NO ANSWER".

**Conclusion:** The type of documentation required from each member state when acquiring an object varies considerably. Apart from the member states that do not have any type of legal provisions (Austria, Latvia) and other member states like Romania, which although does not have any legal provisions it does acknowledge that "each museum acts upon its self established set of procedures and due diligence principles. The museums might request certain provenance documents if they consider relevant or they can simply ask for an affidavit of ownership from the offerer of a cultural good in order to protect themselves from the penal sanction provisioned for detaining a cultural good that belongs to the cultural heritage of another country and has been illicitly removed from that country or from the prejudice subsequent to the acquisition of a stolen cultural good", we can distinguish different intensity of control applied by other member states:

1. Member states that do not have special provisions on this matter, but set the application of sufficient attention and responsibility as a precondition for the accreditation of museums, archives and libraries (Denmark), or they submit each proposed acquisition under individual examination to ensure the lawful origins/provenance of the object in question (Finland);
2. Member states that generally say they follow ICOM Code of Ethics (Germany), or that their cultural heritage institutions will do their best to check the pedigree of future acquisitions under a high level of ethical behaviour, without however stating exactly how they do so (Netherlands);
3. Member states that seek, *a priori* or *ad hoc*, a declared provenance and a written certificate of possession under responsibility of the owner (Italy, Belgium, Cyprus, Estonia, Malta, Lithuania);
4. Member states that have in force more rigorous procedures with defined steps and specific requirements for such documentation (Czech Republic, Hungary, France,

Portugal, Greece, Spain, UK), namely: i] documentation of export from the country of origin/provenance, ii] previous owner, iii] donation, iv] inheritance and bequest documentation, v] home and details of purchaser or dealer, vi] purchase agreement, vii] declaration made in front of a notary, viii] photographic evidence, ix] family correspondence, x] auction catalogues, xi] excavation field notes', or/and xii] an import certificate (a request by still few member states such as Greece, Spain).

The DCMS's guidance '*Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material*' is a very good practical guide to the documentation to be requested and the procedures to be followed by member states on this matter.

**Recommendation:** There is need common standards to be followed by member states concerning the required documentation before an acquisition of a cultural good by cultural institutions/museums/libraries/archives/possessors, as for example those provided by the 1970 Unesco Convention and by the *Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material*'.

**Q9. If there is suspicion that an object promoted for sale, bequest or donation to a museum, archive or library is a product of illicit trafficking, what procedure is followed?**

AUSTRIA	NO
BELGIUM	YES
CYPRUS	YES
CZECH REPUBLIC	YES
DENMARK	YES potentially
ESTONIA	YES
FINLAND	YES
FRANCE	YES
GERMANY	YES
GREECE	YES

HUNGARY	YES
ITALY	YES
LATVIA	NE
LITHUANIA	NE
LUXEMBOURG	NO
MALTA	YES
NETHERLANDS	YES
PORTUGAL	YES
ROMANIA	YES
SPAIN	YES
UK	YES

We took into consideration 21 answers. Out of the 21, 15 were "YES", 3 with no such experience ["NON EXPERIENCE"], 2 "NO", 1 "YES POTENTIALLY".

**Conclusion:** The implementation of a procedure seems to be very important when there is a suspicion that an object promoted for sale, bequest or donation might be tainted. However, only few member states (Germany, Netherlands, Portugal, Spain, and Greece) seem to follow a well defined and strict procedure that covers the following steps:

- safe deposit of the tainted object
- research
- confiscation
- legal procedure
- restitution
- compensation buyer in good faith

or in detail:

- The museum has to inform the competent central authority and provides the requested documentation
- If there is a suspicion, the acquisition is not permitted.
- Police authority is informed and a confiscation follows.

- Necessary steps are undertaken in order to return the tainted object to the rightful owner.

**Q10. In case it is proved that is a tainted object, what procedure is followed?**

<b>AUSTRIA</b>	NO
<b>BELGIUM</b>	need more clarification
<b>CYPRUS</b>	YES
<b>CZECH REPUBLIC</b>	YES
<b>DENMARK</b>	YES potentially
<b>ESTONIA</b>	YES
<b>FINLAND</b>	YES
<b>FRANCE</b>	need more clarification
<b>GERMANY</b>	YES

<b>GREECE</b>	YES
<b>HUNGARY</b>	YES
<b>ITALY</b>	YES
<b>LATVIA</b>	NE
<b>LITHUANIA</b>	NE
<b>LUXEMBOURG</b>	NO
<b>MALTA</b>	YES
<b>NETHERLANDS</b>	YES
<b>PORTUGAL</b>	YES
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES
<b>UK</b>	YES

We took into consideration 21 answers. There were 14 “YES”, 1 “YES POTENTIALLY”, 2 “NON EXPERIENCE”, 2 “NO and 2 “NEED FURTHER CLARIFICATION” (France may have explained the word “tainted” as “fake”; Belgium is not very specific and analytical in its answer. In this case an illuminating example would have been helpful).

**Conclusion:** The implementation of a procedure when there is a proof that an object promoted for sale is tainted is very important. Only few member states, however, seem to follow a very specific and strict procedure (see Germany, Netherlands, Romania, Portugal, Spain, and Greece), which step-by-step, can be as following:

safe deposit of the object, research, confiscation, legal procedure, restitution, compensation of the *bona fidae* buyer.

We should also note that this questionnaire did not address the problem of forgeries (trade of fakes in the art market) which is also very important and directly related to the illegal trade of cultural goods. It is certainly a point to investigate in a future detailed study, thus we recommend:

**Recommendations:** 1] The adoption by member states of a procedure when an object offered is suspected or it is proved to be tainted is very important as this deters the illicit trafficking of cultural goods and contributes to the return of an object to its country of origin. 2] The problem of the trade of forgeries is a very important one, is widely spread and directly related to the general issue of illicit trade of cultural goods. A meticulous study on this matter should also be addressed by the Commission in the future.

**Q11. In the above case (No. 10), does the museum, library or archive inform the national authority responsible for the implementation of Directive 93/7/EEC on the Return of Cultural property that has been illicitly removed from the territory of a member state?**

<b>AUSTRIA</b>	NE
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<b>BELGIUM</b>	NE
<b>CYPRUS</b>	YES

CZECH REPUBLIC	YES
DENMARK	YES
ESTONIA	YES
FINLAND	YES
FRANCE	YES
GERMANY	YES
GREECE	YES
HUNGARY	YES
ITALY	YES

LATVIA	---
LITHUANIA	YES
LUXEMBOURG	NO
MALTA	YES
NETHERLANDS	YES
PORTUGAL	YES
ROMANIA	NO
SPAIN	YES
UK	NO

We took into consideration 21 answers. Out of the 21, 15 were “YES”, 2 “NON EXPERIENCE”, 1 “NO ANSWER”, 3 “NO”.

**Conclusion:** Although Directive 93/7/EEC is the main instrument of EU for the Return of Cultural Goods, we cannot have conclusive evidence whether informing the relevant national authorities for its implementation is put into actual practice. One thing is the legal obligation of each member state, another thing is their efficiency and readiness in its application. Detailed reporting on this matter can be requested by the *ad hoc* Working Group to the Export and Return Committee for the Recasting of Directive 93.

**Recommendation:** The Working Group to the Export and Return Committee for the Recasting/modification of Directive 93/7/EEC should be consulted whether informing the relevant national authorities for its implementation is really practiced and efficiently followed or not. It is also important to know the obstacles and “threats” that deter its full implementation.

**Q12. In case the tainted object has illicitly been removed from a third country, what procedure is followed?**

AUSTRIA	---
BELGIUM	NE
CYPRUS	NO
CZECH REPUBLIC	YES
DENMARK	YES
ESTONIA	YES
FINLAND	YES
FRANCE	---
GERMANY	YES
GREECE	YES

HUNGARY	YES
ITALY	YES
LATVIA	NE
LITHUANIA	YES
LUXEMBOURG	NO
MALTA	YES
NETHERLANDS	YES
PORTUGAL	YES
ROMANIA	YES
SPAIN	YES
UK	YES

We took into consideration 21 answers. Out of the 21 member states, 15 have relevant procedures (“YES”), 2 no precedent cases (“NON EXPERIENCE”), 2 did not reply (“NO ANSWER”), and 2 had no procedures at all (“NO”).

**Conclusion:** Similarly to Q10, there is a wide range of approaches on this matter; from the one whereby member states may not have any relevant provisions but their museums are supposed to inform the police (i.e. Denmark) to the one whereby member states perform fairly good practices (i.e. Germany, Greece, Netherlands, Spain, Romania, and UK), which nonetheless still vary considerably in terms of the followed steps.

**Q13. Are there any penal or administrative sanctions in case a museum, library or archive acquires a tainted object?**

AUSTRIA	NO
BELGIUM	YES
CYPRUS	YES
CZECH REPUBLIC	YES
DENMARK	YES
ESTONIA	NO
FINLAND	NO
FRANCE	NO
GERMANY	YES
GREECE	YES

HUNGARY	NO
ITALY	NO
LATVIA	YES
LITHUANIA	NE
LUXEMBOURG	YES
MALTA	NO
NETHERLANDS	NO
PORTUGAL	YES
ROMANIA	YES
SPAIN	NO
UK	YES

We took into consideration 21 answers. 11 member states had penal or/and administrative sanctions (“YES”), 9 member states do not have any such sanctions (“NO”), and 1 member state does not have any precedent experience (“NON EXPERIENCE”).

**Conclusion:** The most severe sanctions are applied in member states such as Cyprus, Germany, Greece, Luxembourg (because of its upper limit of 5 years of imprisonment), Romania, UK, Belgium, Denmark (not penal but potentially detrimental for the accreditation of the museums involved and thus their funding).

**Recommendation:** The sanctions imposed on when a cultural institution/museum/library/archive/possessor have an effect on deterring illicit traffickers from depriving a country of origin from its cultural heritage. This effect should however been seen in relation to the different legal systems in each member state.

**Q14. Do museums, libraries or archives proceed with a search for the provenance of an object before borrowing it on loan for a temporary exhibition?**

AUSTRIA	need more clarification
BELGIUM	NO
CYPRUS	NO
CZECH REPUBLIC	YES
DENMARK	YES
ESTONIA	NO
FINLAND	YES
FRANCE	NO
GERMANY	YES
GREECE	YES
HUNGARY	YES
ITALY	YES
LATVIA	NO

LITHUANIA	NO
LUXEMBOURG	need more clarification
MALTA	NO
NETHERLANDS	YES
PORTUGAL	YES/need more clarification
ROMANIA	need more clarification
SPAIN	NO
UK	YES

We took into consideration 21 answers. From those 9 member states follow a procedure ("YES"), 9 have no procedure ("NO) and 2 member states need to give further clarification, 1 "YES" but needs further explanation for it does not provide any specific explanation (Portugal).

**Conclusion:** The few positive answers from member states for searching the provenance of an object before accepting it on loan is an indication of a "laissez-faire" practice by museum/libraries and archives in EU regarding *due diligence*. There have been some cases that a European member state refused to loan objects to big reputable institutions in other member states because they have intended to include dubious ancient works in their temporary exhibitions.

Best practice is applied by three member states: Netherlands, UK and Greece.

**Recommendation:** Transparency into the lending process must be promoted within EU museums. Loan contracts can incorporate terms regarding the search by the lender regarding the objects' provenance. The complete lists of the artefacts on loan must be made public to contracting museum parties, so that each participant is well aware of the other artefacts which will be on display in this temporary exhibition.

This matter is also of great relevance for the Immunity from Seizure OMC sub-group.

**Q15. Do museums, libraries or archives request information about the participating institutions and the objects involved before sending on loan a cultural object for a temporary exhibition?**

<b>AUSTRIA</b>	need more clarification
<b>BELGIUM</b>	NO
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	YES
<b>DENMARK</b>	YES
<b>ESTONIA</b>	NO
<b>FINLAND</b>	YES
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES
<b>GREECE</b>	YES

<b>HUNGARY</b>	YES
<b>ITALY</b>	YES
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	NO
<b>LUXEMBOURG</b>	need more clarification
<b>MALTA</b>	NO
<b>NETHERLANDS</b>	YES
<b>PORTUGAL</b>	YES
<b>ROMANIA</b>	NO
<b>SPAIN</b>	YES
<b>UK</b>	YES

We took into consideration 21 answers. From those 12 member states follow a procedure ("YES"), 7 have no procedure ("NO) and 2 member states need to provide further clarification. From the number of positive responses, two still need further clarification (Germany, France) and one (UK) describes an interesting but more general procedure.

**Conclusion:** As the loans are not only sent to EU member states but also to third countries, it seems that there is no practice in many member states to proceed with any further research before sending a loan about the institutions and the objects participating in a temporary exhibition. This approach, seen in extension, may indirectly promote the indifference of some museum institutions, which organise temporary exhibitions, not to be scrupulous about the provenance of the objects participating in exhibitions.

Good practice is, however, applied by some member states (see actions taken by Finland, Greece, Italy, Netherlands, and Spain).

This question is also relevant with the subject matter of the Immunity from Seizure OMC sub-Group.

**Q16. If it is found that dubious collections or objects are participating in temporary exhibitions in other member states, what are the further steps that museums, libraries, archives follow?**

AUSTRIA	----
BELGIUM	NE
CYPRUS	NO
CZECH REPUBLIC	YES
DENMARK	YES
ESTONIA	NO
FINLAND	YES
FRANCE	----
GERMANY	need more clarification
GREECE	YES
HUNGARY	YES

ITALY	NO
LATVIA	NE
LITHUANIA	need more clarification
LUXEMBOURG	need more clarification
MALTA	YES
NETHERLANDS	NO
PORTUGAL	YES
ROMANIA	YES
SPAIN	YES
UK	NO

We took into consideration 21 answers. Out of the 21, 9 member states follow a procedure ("YES"), 5 have no procedure ("NO"), 3 need to give further clarification; 2 have no experience in this matter and 2 did not answer.

**Conclusion:** It seems that out of the positive questions only five member states have a defined procedure to follow when found that dubious collections or objects are included in a temporary exhibition in another member state. Those countries (Malta, Romania, Spain, Portugal, Greece) are applying best practice by withdrawing from participating in the exhibition. It is inferred that the research by the lending museums into the provenance of the participating objects in another member state, and the withdrawing from the exhibition are mechanisms of pressure upon the organising museum institutions to be more scrupulous with matters of provenance. They prevent in this way the recognition of a dubious collection or object and in extent its illicit trafficking.

**B. For Collectors-Possessors (Private or legal entities)**

**Q17. Are there provisions in a national law concerning collectors and/or possessors?**

AUSTRIA	NO
BELGIUM	NO
CYPRUS	YES
CZECH REPUBLIC	NO
DENMARK	NO
ESTONIA	NO
FINLAND	YES
FRANCE	NO
GERMANY	YES
GREECE	YES

HUNGARY	YES
ITALY	YES
LATVIA	YES
LITHUANIA	Needs more clarification
LUXEMBOURG	NO
MALTA	----
NETHERLANDS	YES
PORTUGAL	YES
ROMANIA	YES
SPAIN	YES

UK	YES
----	-----

We took into consideration 21 answers. Out of the 21, 12 member states seem to follow a procedure ("YES"), 7 have no procedure ("NO"), 1 needs to provide further clarification and 1 did not answer. Out of the 9 positive answers, Germany needs further clarification.

Best practice is applied by Finland, Netherlands, Greece, Portugal and possibly Spain.

**Q18. Are private collections controlled by a national authority or other body?**

**If yes, has the national authority or body the competence of controlling the acquisitions by collectors and what are the relevant provisions?**

AUSTRIA	irrelevant
BELGIUM	NO
CYPRUS	YES
CZECH REPUBLIC	NO
DENMARK	NO
ESTONIA	NO
FINLAND	NO
FRANCE	YES
GERMANY	YES
GREECE	YES

HUNGARY	YES
ITALY	YES
LATVIA	YES
LITHUANIA	NO
LUXEMBOURG	NO
MALTA	----
NETHERLANDS	YES
PORTUGAL	YES
ROMANIA	NO
SPAIN	YES
UK	NO

We took into consideration 21 answers. Out of the 21, 10 member states follow a procedure ("YES"), 9 have no procedure ("NO"), 1 provided a non-relevant answer ("IRRELEVANT") and 1 did not answer. Out of the 7 positive answers, France needs to provide further clarification.

Best practice is applied by Cyprus, Netherlands, Greece, Portugal and possibly Spain.

**Q19. What documentation is requested before acquiring an object? (e.g. import/export certificate, previous owners or possessors, inheritance or bequest documents, provenance).**

AUSTRIA	NO
BELGIUM	NO
CYPRUS	YES
CZECH REPUBLIC	needs more clarification
DENMARK	NO
ESTONIA	YES
FINLAND	NO
FRANCE	----
GERMANY	YES
GREECE	YES

HUNGARY	NO
ITALY	YES
LATVIA	NO
LITHUANIA	N/A
LUXEMBOURG	YES
MALTA	----
NETHERLANDS	YES
PORTUGAL	----
ROMANIA	NO
SPAIN	YES
UK	YES potentially

We took into consideration 21 answers. Out of 21 member states, 7 say they follow a procedure ("YES"), 7 have no procedure ("NO"), 1 needs to provide further clarification, 1 states that this question does not apply for its case N/A (Lithuania) and 3 gave no answer.

Best practice is applied by 3 only member states: Netherlands, Greece and potentially UK.

Three (3) member states Estonia, Germany and Luxembourg request import/export certificates.

**Conclusion:** The lack of request in documentation proving the legality of an object promotes indirectly the illicit trafficking. Most of the member states seem to describe in their replies a procedure which refers to import/export certificates which concern objects from third countries. It seems that there is lack of reference to the procedure followed for objects coming from another member state within EU.

**Q20. In case it is proved that it is a tainted object, what procedure is followed?**

AUSTRIA	YES
BELGIUM	YES
CYPRUS	YES
CZECH REPUBLIC	needs more clarification
DENMARK	YES
ESTONIA	NO/YES
FINLAND	NO
FRANCE	----
GERMANY	YES
GREECE	YES
HUNGARY	NO
ITALY	YES

LATVIA	needs more clarification
LITHUANIA	N/A
LUXEMBOURG	----
MALTA	----
NETHERLANDS	YES
PORTUGAL	----
ROMANIA	YES
SPAIN	YES
UK	YES

We took into consideration 21 answers. Out of the 21 member states, 12 answered “YES”, 1 “NO”, 2 need to provide further clarification, 1 provided an answer that can be counted as “NO/YES”, 1 is N/A (Lithuania) and 4 did not answer.

Best practice is applied by some member states: Germany, Netherlands, Greece and partially Estonia and Spain.

**Conclusion:** Lack of action or/and defined procedures on this matter indirectly promote illicit trafficking of cultural goods.

**Q21. When it is proved it is a tainted object, does the authority or body controlling the acquisitions by collectors inform the national authority responsible for the implementation of Directive 93/7/EEC on the Return of Cultural property that has been illicitly removed from the territory of a member state?**

AUSTRIA	YES
BELGIUM	NE
CYPRUS	YES
CZECH REPUBLIC	NO

DENMARK	YES
ESTONIA	YES
FINLAND	NO
FRANCE	NO

<b>GERMANY</b>	YES
<b>GREECE</b>	YES
<b>HUNGARY</b>	YES
<b>ITALY</b>	----
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	needs more clarification
<b>LUXEMBOURG</b>	NO

<b>MALTA</b>	----
<b>NETHERLANDS</b>	Not relevant
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	NO
<b>SPAIN</b>	NO
<b>UK</b>	NO/YES

We took into consideration 21 answers. Out of the 21 member states, 6 answered “YES”, 1 “NO/YES”, 1 needs to provide further clarification, 1 is in “NOT RELEVANT”, 8 said they do not have a procedure [“NO”], 1 does not have relevant experience [“NON EXPERIENCE”] and 3 did not answer.

**Conclusion:** Only six member states inform the national authority responsible for Directive 93/7/EEC; it seems that although Directive 93/7/EEC is the main legal instrument at EU level, other means are used.

**Q22. In case the tainted object has illicitly been removed from a third country, what procedure is followed?**

<b>AUSTRIA</b>	NO
<b>BELGIUM</b>	NE
<b>CYPRUS</b>	YES
<b>CZECH REPUBLIC</b>	YES
<b>DENMARK</b>	YES
<b>ESTONIA</b>	YES
<b>FINLAND</b>	needs more clarification
<b>FRANCE</b>	----
<b>GERMANY</b>	YES

<b>GREECE</b>	YES
<b>HUNGARY</b>	NO
<b>ITALY</b>	YES
<b>LATVIA</b>	YES
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	----
<b>MALTA</b>	----
<b>NETHERLANDS</b>	YES
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES
<b>UK</b>	YES

We took into consideration 21 answers. Out of the 21, 14 member states answered “YES”, 1 needs to provide further clarification, 1 replied “NO”, 1 stated “NON EXPERIENCE” on the matter, and 4 did not answer.

**Conclusion:** From the answers provided it is evident that the majority of the member states apply the international conventions. Best practice is applied by at least six (6) member states: Germany, Greece, Netherlands, Romania, Spain, and possibly UK. The remaining member states that provided positive answers have some sort of procedure followed on the matter.

**Q23. Are there any penal or administrative sanctions in case a collector acquires a tainted object?**

<b>AUSTRIA</b>	YES
<b>BELGIUM</b>	NO

<b>CYPRUS</b>	YES
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CZECH REPUBLIC	NO
DENMARK	YES
ESTONIA	NO
FINLAND	NO
FRANCE	YES
GERMANY	YES
GREECE	YES
HUNGARY	YES
ITALY	YES

LATVIA	NO
LITHUANIA	----
LUXEMBOURG	YES
MALTA	----
NETHERLANDS	NO
PORTUGAL	----
ROMANIA	YES
SPAIN	NO/YES
UK	YES

We took into consideration 21 answers. Out of the 21, 9 member states answered “YES”, 1 “NO/YES”, 8 “NO”, and 3 did not answer.

Best practice is applied by quite a few member states: Cyprus, Germany, Greece, Luxembourg (for the upper limit), Romania, UK and possibly Denmark.

**Recommendation:** Further study is recommended to assess whether the lack of sanctions promotes the illicit trafficking tainted objects and their illicit trade.

#### 24. Do the collectors have access to national databases for stolen objects?

AUSTRIA	NO
BELGIUM	YES conditional
CYPRUS	NO
CZECH REPUBLIC	YES
DENMARK	NO
ESTONIA	NO
FINLAND	NO
FRANCE	YES
GERMANY	YES
GREECE	NO

HUNGARY	YES
ITALY	YES
LATVIA	NO
LITHUANIA	YES
LUXEMBOURG	
MALTA	----
NETHERLANDS	NO
PORTUGAL	YES
ROMANIA	YES
SPAIN	YES
UK	NO/YES

We took into consideration 21 answers. Out of the 21 member states, 10 answered “YES”, 1 “NO/YES”, 9 “NO”, and 1 did not answer.

### C. For Art Dealers and Auction Houses\*

**Q25. Are there any provisions in a national law concerning the art dealers and auction houses?**

\* Both are mentioned both, because in some countries like Greece they are two different entities

AUSTRIA	YES
BELGIUM	NO
CYPRUS	YES
CZECH REPUBLIC	YES
DENMARK	YES
ESTONIA	NO
FINLAND	YES
FRANCE	YES
GERMANY	YES
GREECE	YES

HUNGARY	YES
ITALY	YES
LATVIA	YES
LITHUANIA	YES
LUXEMBOURG	NO
MALTA	----
NETHERLANDS	YES
PORTUGAL	YES
ROMANIA	YES
SPAIN	YES
UK	YES

We took into consideration 21 answers. Out of 21 member states, 17 answered “YES”, 3 “NO”, and 1 with no answer.

From the 17 positive answers, more detailed regulations seem to have five member states namely: Latvia, Romania, Portugal, Greece, and UK.

**Q26. Are art dealers and auction houses informed of the provisions of Unidroit Convention concerning “due diligence” (article 4) (Note: For member states that have ratified or accepted the Convention)?**

AUSTRIA	not ratified
BELGIUM	NO
CYPRUS	NO
CZECH REPUBLIC	Not ratified
DENMARK	Not ratified
ESTONIA	Not ratified
FINLAND	YES
FRANCE	YES
GERMANY	YES
GREECE	NO
HUNGARY	YES

ITALY	----
LATVIA	----
LITHUANIA	YES
LUXEMBOURG	NO
MALTA	----
NETHERLANDS	NA
PORTUGAL	----
ROMANIA	YES
SPAIN	YES
UK	not ratified

Out of the 21 member states, 7 answered “YES”, 4 “NO”, 5 that have not ratified the Convention, 1 “Not relevant”, and 4 did not answer.

**Q27. Are dealers and auction houses supervised and/or controlled by a national authority or other body?**

AUSTRIA	YES
BELGIUM	NO
CYPRUS	NO
CZECH REPUBLIC	YES
DENMARK	NO

ESTONIA	YES
FINLAND	NO
FRANCE	YES
GERMANY	YES
GREECE	YES
HUNGARY	YES

ITALY	YES
LATVIA	NO
LITHUANIA	YES
LUXEMBOURG	NO
MALTA	----
NETHERLANDS	YES

PORTUGAL	YES
ROMANIA	YES
SPAIN	YES
UK	NO

Out of the 21 member states, 13 answered "YES", 7 "NO", and 1 did not answer.

**Q28. Are antique dealers obliged to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold, and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject as it is provided for by article 10b of the 1970 Unesco Convention (Note: Twenty two (22) member states are contracting members of the Convention)**

AUSTRIA	not ratified
BELGIUM	NO
CYPRUS	NO
CZECH REPUBLIC	YES
DENMARK	YES
ESTONIA	NO
FINLAND	YES
FRANCE	YES
GERMANY	YES
GREECE	YES
HUNGARY	NO
ITALY	YES

LATVIA	NO
LITHUANIA	YES
LUXEMBOURG	not ratified
MALTA	----
NETHERLANDS	YES
PORTUGAL	----
ROMANIA	YES
SPAIN	YES
UK	YES

Out of the 21 member states, 12 answered "YES", 2 that have not ratified the Convention ["NOT RATIFIED"], 5 "NO", and 2 did not answer.

Best practice is applied by Lithuania and Greece.

**Q29. Are antique dealers subject to penal or administrative sanctions if they do not maintain a register as provided for in article 10b of 1970 Unesco Convention?**

AUSTRIA	not ratified
BELGIUM	YES
CYPRUS	NO
CZECH REPUBLIC	NO
DENMARK	YES
ESTONIA	NO
FINLAND	NO
FRANCE	YES
GERMANY	YES
GREECE	YES

HUNGARY	NO
ITALY	YES
LATVIA	NO
LITHUANIA	YES
LUXEMBOURG	NO
MALTA	----
NETHERLANDS	YES
PORTUGAL	YES
ROMANIA	YES
SPAIN	NO
UK	YES

Out of the 21 member states, 11 answered “YES”, 8 “NO”, 1 that has not ratified the Convention [“NOT RATIFIED”], and 1 did not answer.

Best practice is applied by Netherlands and Greece.

**Q30. If there is suspicion by dealers/auction houses that a tainted object is promoted for sale, what procedures are followed?**

<b>AUSTRIA</b>	YES
<b>BELGIUM</b>	YES
<b>CYPRUS</b>	YES
<b>CZECH REPUBLIC</b>	need more clarification
<b>DENMARK</b>	YES POTENTIALLY
<b>ESTONIA</b>	YES
<b>FINLAND</b>	Information not available
<b>FRANCE</b>	----
<b>GERMANY</b>	YES/NO

<b>GREECE</b>	YES
<b>HUNGARY</b>	YES
<b>ITALY</b>	YES
<b>LATVIA</b>	YES
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	need more clarification
<b>MALTA</b>	----
<b>NETHERLANDS</b>	YES
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES
<b>UK</b>	YES

Out of the 21 member states, 13 provided positive answers [“YES”], 1 “YES/NO”, 1 did not have such information [“NON AVAILABLE INFORMATION”], 2 must provide further clarification [“NEED FURTHER CLARIFICATION”], 1 falls under the “YES POTENTIALLY” category, and 3 did not answer.

Best practice is applied by Austria, Netherlands, Spain and Greece.

**Q31. If a tainted object is offered for sale, what procedures are followed?**

<b>AUSTRIA</b>	YES
<b>BELGIUM</b>	NO
<b>CYPRUS</b>	YES
<b>CZECH REPUBLIC</b>	YES
<b>DENMARK</b>	NO
<b>ESTONIA</b>	YES
<b>FINLAND</b>	Information not available
<b>FRANCE</b>	----
<b>GERMANY</b>	YES
<b>GREECE</b>	YES
<b>HUNGARY</b>	need further clarification

<b>ITALY</b>	need further clarification
<b>LATVIA</b>	YES
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	need further clarification
<b>MALTA</b>	----
<b>NETHERLANDS</b>	YES
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES
<b>UK</b>	YES

Out of the 21 member states, 12 answered “YES”, 2 “NO”, 1 that does not such information [“NON AVAILABLE INFORMATION”], 3 should provide more date [“NEED FURTHER CLARIFICATION”], and 3 did not answer.

Best practice is applied by Austria, Germany, Netherlands, Romania, Spain and Greece.

**Q32. Are there any penal or administrative sanctions if a tainted object is offered for sale?**

<b>AUSTRIA</b>	YES
<b>BELGIUM</b>	NO conditional
<b>CYPRUS</b>	YES
<b>CZECH REPUBLIC</b>	NO
<b>DENMARK</b>	YES
<b>ESTONIA</b>	NO
<b>FINLAND</b>	NO
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES
<b>GREECE</b>	YES

<b>HUNGARY</b>	NO
<b>ITALY</b>	YES
<b>LATVIA</b>	YES
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	YES
<b>MALTA</b>	----
<b>NETHERLANDS</b>	YES
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES
<b>UK</b>	YES

Out of the 21 member states, 14 answered “YES”, 5 “NO”, and 2 did not answer.

Best practice is applied by Austria, Romania, UK, Greece and possibly Germany.

**Q33. Do art dealers/auction houses have access to national databases for stolen objects?**

<b>AUSTRIA</b>	NO
<b>BELGIUM</b>	YES
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	YES
<b>DENMARK</b>	NO
<b>ESTONIA</b>	NO
<b>FINLAND</b>	NO
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES
<b>GREECE</b>	NO

<b>HUNGARY</b>	YES
<b>ITALY</b>	YES
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	NO
<b>MALTA</b>	----
<b>NETHERLANDS</b>	NO
<b>PORTUGAL</b>	YES
<b>ROMANIA</b>	YES
<b>SPAIN</b>	NO
<b>UK</b>	NO

Out of the 21 member states, 9 replied positively [“YES”], 11 negatively [“NO”], and 1 did not answer.

## APPENDIX 1 - The Due Diligence Questionnaire

European experts group on mobility of collections  
Sub-working group on the Prevention of thefts and  
Illicit trafficking of cultural goods

### IMPLEMENTATION OF DUE DILIGENCE - QUESTIONNAIRE

Please return this questionnaire by email to:

[jean-paul.mercier-baudrier@culture.gouv.fr](mailto:jean-paul.mercier-baudrier@culture.gouv.fr) – [aline.denis@culture.gouv.fr](mailto:aline.denis@culture.gouv.fr) and

[tmmdms.dmeep@culture.gr](mailto:tmmdms.dmeep@culture.gr)

by 15 February 2010

<b>A. For Museums (State or Private)</b>
--

1. Are there provisions in a national law concerning acquisitions by museums, libraries and archives?

YES

NO

If yes, please describe the relevant provisions

.....  
.....

2. Is there a control by a national authority of the acquisition procedures by a museum, library, archive?

YES

NO

If yes, what are the relevant provisions?

.....  
.....

3. Have the provisions of ICOM's Code of Ethics concerning acquisition been embodied in a national law?

YES

NO

4. Are the museums made aware by the national authority or body about the 1970 Unesco provisions concerning acquisitions, export authorisation and obligation of dealers (art. 6, 7, 10)?

YES

NO

a) If yes, please specify in which way (i.e. seminars, circulars, guidelines, etc.)

.....  
.....

b) Please state the level of application of these articles (6, 7, 10) and the tools for adhering to the Convention. Please give examples

.....  
.....

5. Are the museums made aware by the national authority or body of the Unidroit provisions, on due diligence (article 4)? (Note: for member states that have ratified or accepted the Convention)

YES

NO

a) If yes, please specify in which way (i.e. seminars, circulars, guidelines, etc.)

.....  
.....

b) Please state the level of application of this article and which the tools for adhering to the Convention. Please give examples

.....  
.....

6. Do museums seek attestation from Interpol's or other national and/or international databases (i.e. ICOM's Red List) for stolen objects before proceeding with acquiring an object?

YES

NO

Please provide specific examples

.....  
.....

7. Do the museums, libraries or/and archives have access to national databases for stolen objects?

YES

NO

8. What documentation is requested before acquiring an object? (e.g. import/export certificate, previous owners or possessors, inheritance or bequest documents, provenance).

.....  
.....

9. If there is suspicion that an object promoted for sale, bequest or donation to a museum, archive or library is a product of illicit trafficking, what procedure is followed?

.....  
.....

10. In case it is proved that is a tainted object, what procedure is followed?

.....  
.....

11. In the above case (No. 10), does the museum, library or archive inform the national authority responsible for the implementation of Directive 93/7/EEC on the Return of Cultural property that has been illicitly removed from the territory of a member state?

YES

NO

12. In case the tainted object has illicitly been removed from a third country, what procedure is followed?

.....  
.....

13. Are there any penal or administrative sanctions in case a museum, library or archive acquires a tainted object?

YES

NO

If yes, what are these sanctions?

.....  
.....

14. Do museums, libraries or archives proceed with a search for the provenance of an object before borrowing it on loan for a temporary exhibition?

YES

NO

If yes, specify the type of search?

.....  
.....

15. Do museums, libraries or archives request information about the participating institutions and the objects involved before sending on loan a cultural object for a temporary exhibition?

YES

NO

If yes, specify the type of search?

.....  
.....  
**16.** If it is found that dubious collections or objects are participating in temporary exhibitions in other member states, what are the further steps that museums, libraries, archives follow?

.....  
.....

***B. For Collectors-Possessors (Private or legal entities)***

**17.** Are there provisions in a national law concerning collectors and/or possessors?

YES

NO

If yes, please describe the relevant provisions

.....  
.....

**18.** Are private collections controlled by a national authority or other body?

YES

NO

If yes, has the national authority or body the competence of controlling the acquisitions by collectors and what are the relevant provisions?

.....  
.....

**19.** What documentation is requested before acquiring an object? (e.g. import/export certificate, previous owners or possessors, inheritance or bequest documents, provenance).

.....  
.....

**20.** In case it is proved that it is a tainted object, what procedure is followed?

.....  
.....

**21.** When it is proved it is a tainted object, does the authority or body controlling the acquisitions by collectors inform the national authority responsible for the implementation of Directive 93/7/EEC on the Return of Cultural property that has been illicitly removed from the territory of a member state?

YES

NO

22. In case the tainted object has illicitly been removed from a third country, what procedure is followed?

.....  
.....

23. Are there any penal or administrative sanctions in case a collector acquires a tainted object?

YES NO

If yes, what are these sanctions?

.....  
.....

24. Do the collectors have access to national databases for stolen objects?

YES NO

**C. For Art Dealers and Auction Houses\***

25. Are there any provisions in a national law concerning the art dealers and auction houses?

YES NO

If yes, please describe the relevant provisions

.....  
.....

26. Are art dealers and auction houses informed of the provisions of Unidroit Convention concerning "due diligence" (article 4) (Note: For member states that have ratified or accepted the Convention)?

YES NO

27. Are dealers and auction houses supervised and/or controlled by a national authority or other body?

YES NO

If yes, please provide the relevant provisions

.....  
.....

28. Are antique dealers obliged to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each

---

\* Both are mentioned both, because in some countries like Greece they are two different entities

item sold, and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject as it is provided for by article 10b of the 1970 Unesco Convention (Note: Twenty two (22) member states are contracting members of the Convention)

YES

NO

**29.** Are antique dealers subject to penal or administrative sanctions if they do not maintain a register as provided for in article 10b of 1970 Unesco Convention?

YES

NO

If yes, please provide the relevant provisions

.....  
.....

**30.** If there is suspicion by dealers/auction houses that a tainted object is promoted for sale, what procedures are followed?

.....  
.....

**31.** If a tainted object is offered for sale, what procedures are followed?

.....  
.....

**32.** Are there any penal or administrative sanctions if a tainted object is offered for sale?

YES

NO

If yes, what are these sanctions?

.....  
.....

**33.** Do art dealers/auction houses have access to national databases for stolen objects?

YES

NO

## APPENDIX 2 - Legal and Ethical Framework

Definitions and provisions for due diligence		
<b>UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (24/6/1995)</b>	Article 4, paragraph 1	The possessor of a stolen cultural object required to return it shall be entitled, at the time of its restitution, to payment of fair and reasonable compensation provided that the possessor neither knew nor ought reasonably to have known that the object was stolen and can prove that it exercised due diligence when acquiring the object.
	Article 4, paragraph 2	Without prejudice to the right of the possessor to compensation referred to in the preceding paragraph, reasonable efforts shall be made to have the person who transferred the cultural object to the possessor, or any prior transferor, pay the compensation where to do so would be consistent with the law of the State in which the claim is brought
	Article 4, paragraph 3	Payment of compensation to the possessor by the claimant, when this is required, shall be without prejudice to the right of the claimant to recover it from any other person
	Article 4, paragraph 4	In determining whether the possessor exercised <i>due diligence</i> , regard shall be had to all the circumstances of the acquisition, including the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained and whether the possessor consulted accessible agencies or took any other step that a reasonable person would have taken in the circumstances
	Article 4, paragraph 5	The possessor shall not be in a more favourable position than the person from whom it acquired the cultural object by inheritance or otherwise gratuitously
<b>UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, 1970</b>	Article 6a, b, c	The State Parties to this Convention undertake: a) to introduce an appropriate certificate in which the exporting State would specify that the export of the cultural property in question is authorised. The certificate should accompany all items of cultural property exported in accordance with the regulations b) to prohibit the exportation of cultural property from their territory unless accompanied by the above-mentioned export certificate c) to publicize this prohibition by appropriate means, particularly among persons likely to export or import cultural property
	Article 7,a	The States Parties to this Convention undertake: a) to take the necessary measures, consistent with national legislation, to prevent museums and similar institutions with their territories from acquiring cultural property originating in

		<p>another State Party which has been illegally exported after entry into force of this Convention, in the States concerned.</p> <p>Whenever possible, to inform a State of origin Party to this Convention of an offer of such cultural property illegally removed from that State after the entry into force of this Convention in both States</p>
	Article 10,a	<p>The States Parties to this Convention undertake:</p> <p>to restrict by education, information and vigilance, movement of cultural property illegally removed from any State Party to this Convention and, as appropriate for each country, oblige antique dealers, subject to penal or administrative sanctions, to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject.</p>
<p><b>Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State</b></p>	Article 4	<p>Member States' central authorities shall cooperate and promote consultation between the Member States' competent national authorities. The latter shall in particular:</p> <ol style="list-style-type: none"> <li>1. upon application by the requesting Member State, seek a specified cultural object which as been unlawfully removed from its territory, identifying the possessor and/or holder. The application must include all information needed to facilitate this search, with particular reference to the actual or presumed location of the object;</li> <li>2. notify the Member States concerned, where a cultural object is found in their own territory and there are reasonable grounds for believing that it has been unlawfully removed from the territory of another Member State;</li> <li>3. enable the competent authorities of the requesting Member State to check that the object in question is a cultural object, provided that the check is made within 2 months of the notification provided for in paragraph 2. If it is not made within the stipulated period, paragraphs 4 and 5 shall cease to apply;</li> <li>4. take any necessary measures, in cooperation with the Member State concerned, for the physical preservation of the cultural object;</li> <li>5. prevent, by the necessary interim measures, any action to evade the return procedure;</li> </ol>

	<b>Article 5</b>	<p>The requesting Member State may initiate, before the competent court in the requested Member State, proceedings against the possessor or, failing him, the holder, with the aim of securing the return of a cultural object which has been unlawfully removed from its territory.</p> <p>Proceedings may be brought only where the document initiating them is accompanied by:</p> <ul style="list-style-type: none"> <li>- a document describing the object covered by the request and stating that it is a cultural object,</li> <li>- a declaration by the competent authorities of the requesting Member State that the cultural object has been unlawfully removed from its territory</li> </ul>
	<b>Article 6</b>	<p>The central authority of the requesting Member State shall forthwith inform the central authority of the requested Member State that proceedings have been initiated with the aim of securing the return of the object in question.</p> <p>The central authority of the requested Member State shall forthwith inform the central authorities of the other Member States</p>
	<b>Article 9</b>	<p>Where return of the object is ordered, the competent court in the requested States shall award the possessor such compensation as it deems fair according to the circumstances of the case, provided that it is satisfied that the possessor exercised due care and attention in acquiring the object.</p> <p>The burden of proof shall be governed by the legislation of the requested Member State.</p> <p>In the case of a donation or succession, the possessor shall not be in a more favourable position than the person from whom he acquired the object by that means.</p> <p>The requesting Member State shall pay such compensation upon return of the object</p>
	<b>Article 10</b>	<p>Expenses incurred in implementing a decision ordering the return of a cultural object shall be borne by the requesting Member State. The same applies to the costs of the measures referred to in Article 4 (4)</p>
	<b>Article 11</b>	<p>Payment of the fair compensation and of the expenses referred to in Articles 9 and 10 respectively shall be without prejudice to the requesting Member State's right to take action with a view to recovering those amounts from</p>

		the persons responsible for the unlawful removal of the cultural object from its territory
<b>Lending to Europe</b>	Glossary, page 36	<i>Due diligence</i> : the requirement that every endeavour is made to establish the facts of a case before deciding a course of action, particularly in identifying the source and history of an item offered for acquisition or use before accepting it <i>Legal ownership</i> : Legal right to ownership of property in the country concerned. In certain countries this may be a conferred right and insufficient to meet the requirements of a <i>due diligence</i> search
<b>ICOM Code of Ethics</b>	Acquiring Collections, Article 2.3. Provenance and Due Diligence	Every effort must be made before acquisition to ensure that any object or specimen offered for purchase, gift, loan, bequest, or exchange has not been illegally obtained in or exported from, its country of origin or any intermediate country in which it might have been owned legally (including the museum's own country). Due diligence in this regard should establish the full history of the item from discovery or production
	Glossary	The requirement that every endeavour is made to establish the facts of a case before deciding a course of action, particularly in identifying the source and history of an item offered for acquisition or use before acquiring it
<b>ICOMOS Ethical Commitment Statement, Revised November 2002, Madrid</b>	Article 5	ICOMOS members promote public awareness, appreciation, access and support for heritage, fostering informed debate, education, training programmes and in particular, international information exchange. They support fellow professionals and mentor junior colleagues by promoting ethical heritage conservation practice to advance the wider understanding of conservation philosophy, standards and methods. ICOMOS Committees are open to a diversity of appropriately qualified experienced end committed applicants for membership
	Article 8	In an emergency, where heritage monuments, sites and other cultural places are in immediate danger or at risk, ICOMOS members render all assistance practicable, provided they do not put their own health in jeopardy
	Article 13	Members undertake to enhance and to uphold the dignity and reputation of ICOMOS. They conduct their professional activities in an open, honest, accountable and objective manner, avoiding bias or dishonesty. Members shall at all times avoid or publicly declare any real or apparent conflict of interest
<b>IFLA* –International</b>	See <a href="http://www.ifla.org/files/hq/ifla-">http://www.ifla.org/files/hq/ifla-</a>	

\* Federation is an independent, international, non-governmental, not-for-profit organization, which advances the interests of library and information associations, libraries and information services, librarians and the communities they serve throughout the world.

2.2 To achieve its purpose, the Federation seeks:

<p><b>Federation of Library Associations and Institutions, Statutes, September 2009, Netherlands</b></p>	<p><a href="#">rules-of-procedure-en.pdf</a></p>	
<p><b>International Council of Archives CODE OF ETHICS</b> (Adopted in Beijing on 6 September 1996)</p>	<p>See <a href="http://www.ica.org/sites/default/files/Ethics-EN.pdf">http://www.ica.org/sites/default/files/Ethics-EN.pdf</a> Section 1</p>	<p>Archivists should protect the integrity of archival material and thus guarantee that it continues to be reliable evidence of the past. The primary duty of archivists is to maintain the integrity of the records in their care and custody. In the accomplishment of this duty they must have regard to the legitimate, but sometimes conflicting, rights and interests of employers, owners, data subjects and users, past, present and future. The objectivity and impartiality of archivists is the measure of their professionalism. They should resist pressure from any source to manipulate evidence so as to conceal or distort facts.</p>
	<p>Section 2</p>	<p>Archivists should appraise, select and maintain archival material in its historical, legal and administrative context, thus retaining the principle of provenance, preserving and making evident the original relationships of documents. Archivists must act in accordance with generally accepted principles and practice. Archivists must perform their duties and functions in accordance with archival principles, with regard to the creation, maintenance and disposition of current and semi-current records, including electronic and multimedia records, the selection and acquisition of records for archival custody, the safeguarding, preservation and conservation of archives in their care, and the arrangement, description, publication and making available for use of those documents. Archivists should appraise records impartially basing their judgment on a thorough knowledge of their institution's administrative requirements and acquisitions policies. They should arrange and describe records selected for retention in accordance with archival principles (namely the principle of provenance and the principle of original order) and accepted standards, as rapidly as their resources permit. Archivists should acquire records in accordance with the purposes and resources of their institutions. They should not seek or accept acquisitions when this would endanger the integrity or security of records; they should cooperate to ensure the preservation of these records in the most appropriate repository. Archivists should</p>

2.2.1 to promote high standards of delivery of library and information services and professional practice, as well as the accessibility, protection, and preservation of documentary cultural heritage. This is done through the enhancement of professional education, the development of professional standards, the dissemination of best practice and the advancement of relevant scientific and professional knowledge;

2.2.2 to encourage widespread understanding of the value and importance of high quality library and information services in the public, private and voluntary sectors;

2.2.3 to represent the interests of its Members throughout the world

		cooperate in the repatriation of displaced archives.
	Section 4	Archivists should ensure the continuing accessibility and intelligibility of archival materials. Archivists should select documents to be kept or to be destroyed primarily to save essential testimony of the activity of the person or the institution which produced and accumulated the documents but also bearing in mind changing research needs. Archivists should be aware that acquiring documents of dubious origin, however interesting, could encourage an illegal commerce. They should cooperate with other archivists and law enforcement agencies engaged in apprehending and prosecuting persons suspected of theft of archival records.
	Section 8	Archivists should use the special trust given to them in the general interest and avoid using their position to unfairly benefit themselves or others. Archivists must refrain from activities which might prejudice their professional integrity, objectivity and impartiality. They should not benefit financially or otherwise personally to the detriment of institutions, users and colleagues. Archivists should not collect original documents or participate in any commerce of documents on their own behalf. They should avoid activities that could create in the public mind the appearance of a conflict of interest.
<b>International Code of Ethics for Dealers in Cultural Property, endorsed by the 30<sup>th</sup> General Conference of UNESCO, 1999</b>	Article 1	Professional Traders in cultural property will not import, export or transfer the ownership of this property when they have reasonable cause to believe it has been stolen, illegally alienated, clandestinely excavated or illegally exported.
	Article 2	A trader who is acting as agent for the seller is not deemed to guarantee title to the property, provided that he makes known to the buyer the full name and address of the seller. A trader who is himself the seller is deemed to guarantee to the buyer the title to the goods.
	Article 3	A trader who has reasonable cause to believe that an object has been the product of a clandestine excavation, or has been acquired illegally or dishonestly from an official excavation site or monument will not assist in any further transaction with that object, except with the agreement of the country where the site or monument exists. A trader who is in possession of the object, where that country seeks its return within a reasonable period of time, will take all legally permissible steps to cooperate in the return of that object to the country of origin
	Article 4	A trader who has reasonable cause to believe that an item of cultural property has been illegally exported will not assist in any further

		transaction with that item, except with the agreement of the country of export. A trader who is in possession of the item, where the country of export seeks its return within a reasonable period of time, will take all legally permissible steps to co-operate in the return of that object to the country of export.
<b>CINOA*</b> (A non-profit international federation for antique and art dealers) – <b>Ethical Code of Conduct Resolved at the General Meeting in Florence in 1987, amended in Stockholm on 26 June 1998 and in New York on 11 May 2005</b>	Articles 1-6	<ol style="list-style-type: none"> <li>1. In view of the worldwide concern regarding trafficking and illegal export of stolen antique objects and works of art CINOA wishes that the profession of antique dealers and traders in works of art would be governed by the following principles:</li> <li>2. The affiliated members of CINOA who happen to possess an object about which there are serious suspicions that it was illegally imported and of which the country of origin demands that it is returned within a reasonable amount of time, shall have to do everything that is possible to them according to the current laws to cooperate in returning the object to its country of origin. In the case of a purchase in good faith by the antique dealer, an amicable refund may be agreed to.</li> <li>3. The affiliated members of CINOA agree to comply with the laws on the protection of endangered species. They therefore agree not to trade in objects manufactured from materials that are protected under the Convention on International Trade in Endangered Species.</li> <li>4. The members will have to take all the necessary measures to detect stolen objects and refer, among others, to registers that are published to this effect and to use these judiciously.</li> <li>5. The members cannot under any circumstance participate in transactions which to the best of their knowledge can result in money-laundering operations.</li> <li>6. It is the duty of each one of the members to check the authenticity of the objects they possess.</li> </ol> <p>The present code of ethics shall apply to all objects that are negotiated on the market of antique objects and art objects</p>
<b>THE EAA CODE OF PR</b>	<b>1. Archaeologists and society</b>	1.6 Archaeologists will not engage in, or allow

\* CINOA is a non-profit international federation of associations which was established more than 70 years ago. It is the only international federation for antique and art dealers that represents a wide array of specialities. CINOA's members are 32 art and antique associations from 22 countries. Through these associations CINOA represents more than 5,000 dealers worldwide. Membership of CINOA is based on associations which bind their dealer members to adhere to reputable standards of quality and expertise. The CINOA secretariat, based in Brussels, has two official working languages: English and French. Our members are from Australia, Austria, Belgium, the Czech Republic, Denmark, France, Germany, Republic of Ireland, Italy, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russia & CIS, South Africa, Spain, Sweden, Switzerland, the United Kingdom and the United States of America

<p><b>ACTICE</b> <i>Approved by the members of the Association at the Annual Business Meeting, held in Ravenna (Italy) on 27 September 1997, and amended at the Annual Business Meeting in Riva del Garda (Italy) on 19 September 2009</i></p>		<p>their names to be associated with, any form of activity relating to the illicit trade in antiquities and works of art, covered by the 1970 UNESCO <i>Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property.</i></p> <p>1.7 Archaeologists will not engage in, or allow their names to be associated with, any activity that impacts the archaeological heritage which is carried out for commercial profit which derives directly from or exploits the archaeological heritage itself.</p> <p>1.8 It is the responsibility of archaeologists to draw the attention of the competent authorities to threats to the archaeological heritage, including the plundering of sites and monuments and illicit trade in antiquities, and to use all the means at their disposal to ensure that action is taken in such cases by the competent authorities.</p>
<p><b>Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material, October 2005, DCMS, UK</b></p>	<p>Section 4: What to do when considering the acquisition or loan of an item</p>	<p><u>What constitutes acceptable evidence</u></p> <ul style="list-style-type: none"> <li>• Export license from country of origin</li> <li>• Publication in a reputable source prior to 1970, or at a date that proves its legitimate subsequent permanent export from country of origin</li> </ul> <p>Or/and</p> <ul style="list-style-type: none"> <li>• Will/inventory</li> <li>• Photographic evidence</li> <li>• Family correspondence</li> <li>• Auction catalogue</li> <li>• Excavation field notes</li> </ul> <p>Beware fake documentation!!</p>
	<p>Section 5: What to do if there are problems establishing the provenance</p>	<p>If the vendor cannot provide acceptable documentary evidence of the item's provenance then it is the museum's duty to undertake due diligence. That is, to make every endeavour to establish the facts of the case before deciding its course of action.</p>
	<p>Section 6: Due diligence – What it should involve</p>	<p>a) <u>Initial examination of item-It is best practice to examine the item to determine whether it...</u></p> <ul style="list-style-type: none"> <li>ii. shows signs of certain types of ingrained dust, dirt or other accretions, or has annotations.</li> <li>iii. Has a distinctive type of mount, mounting or binding that is likely to be from a particular period</li> <li>iv. Has been mended, partially restored or otherwise interfered with. If so, it may be possible to decide whether the methods used are old or new and estimate when work was done</li> <li>v. Carries old labels, inscriptions or other marks. These could offer clues about presence and/or use in former collections-but they might be forged, or if genuine,</li> </ul>

		<p>transferred from other items</p> <p>vi. In the case of archaeological material. Still retains patches of fairly fresh-looking soil or encrustations, and may thus be recently excavated and so more likely to be illicit</p> <p>b) <u>Consider the type of item and likely place of origin – Consider if...</u></p> <p>i. there are certain “hot” areas from which items come on to the market illegally, i.e. areas where extensive looting is happening now or in the recent past (i.e. Afghanistan, Latin America, Iraq...)</p> <p>ii. there are some recognised classes of “red list” item that are extremely likely to be illicit</p> <p>c) <u>Take expert advice</u> ...from specialists in appropriate national museums or museums with designated collections or local experts-for example in the British or foreign schools of archaeology and in museums in the country of origin, from cultural attaches in embassies and high commissions or Unesco. Colleagues might also be able to provide informed opinion about the reputation of the owner of the object. However, expert advisers cannot be held responsible for the purchase itself or any consequences of it, and this responsibility remains with the purchasing institution.</p> <p>d) <u>Determine whether the item was lawfully exported to the United Kingdom</u> Check whether the export of the item was in line with the regulations of the country of origin, and other cultural property legislation applicable at the time the item was exported. If necessary seek legal advice and advice from the country of origin about whether the export of the item complied with legislation</p> <p>e) Evaluate the account given by the vendor or donor The account of the provenance (including export) of the item provided by the owner is vital, and should be supported by documentation or other acceptable evidence or failing that a sworn statement</p> <p>i. The museum must decide whether the vendor/donor’s story is convincing...The vague generic descriptions seen in sales catalogues like “Property of a gentleman” or “from a European private collection” are not acceptable proof of provenance</p> <p>ii. It is important to try to ascertain whether the owner’s word can be accepted. If a member of the trade, is he/she a member of an appropriate and recognised trade association with a reliable Code of Practice?</p>
	Section 7: The results of due diligence	In all cases if there is any suspicion whatsoever about the item, then you should not proceed with the acquisition. If the item’s ethical status is considered acceptable by the museum, then:

		<p>a) The vendor/donor gave a plausible account of the item's history and provided documentary or other acceptable evidence to support the provenance, proving that it was not illegally exported or excavated after 1970</p> <p>b) The museum is clear that the item entered the UK prior to 1970, or was legally exported from the country of origin to the UK after 1970, but there is no documentary evidence of provenance. In this case the museum should ask for a sworn statement, prepared by a lawyer, from the vendor or donor, or their agent, to confirm their account of the item's provenance.</p> <p>In the case of major items the absence of documentary evidence, or an affidavit from the owner, donor or their agent, confirming their account of the item's provenance means that there must be doubts about the item's status, so it cannot be acquired or borrowed.</p> <p>c) If the item is minor and the owner cannot provide a plausible account of its provenance and if it does not fall into any of the categories outlined above, then the decision to accept or purchase the item is a matter for the judgement of the individual museum, having considered all the relevant points. If the museum does embark on the purchase, it is the museum's responsibility to act openly and transparently and record the ways in which due diligence has been exercised.</p> <p>In all cases if there is any suspicion whatsoever about the item, then you should not proceed with the acquisition. If, after all necessary checks have been made, it is felt to be inappropriate to pursue the acquisition further, then the process should be closed formally, with all relevant documentation put on file. Note that under freedom of information requirements, the file may be open to future examination.</p> <p>If a museum believes that a criminal offence has taken place they should report it to the police.</p>
	<p>Section 9: Due diligence when acquiring collections</p>	<p>All items considered for acquisition or loan should necessarily be subject to the measures of due diligence. However, when assessing the suitability for acquisition of large collections of items particular issues arise. If a discrete collection is accompanied by documentation or acceptable evidence verifying its provenance, then acquisition of the collection is not a problem. In the cases where there is no documentation for the entire collection, or where it relates only to some objects, or seems suspect, then each individual item in the collection should be subjected to exactly the</p>

		<p>same due diligence processes as any other individual item and acquired, or rejected accordingly.</p> <p>When an unacceptable item is offered as a gift, the museum might, with the donor's agreement arrange to accept it temporarily with the intention of returning it to the country of origin. In this case the museum must not accession the item, nor retain it longer than strictly necessary.</p>
<p><b>Acceptance in Lieu: Due Diligence Inland Revenue/Museums, Libraries and Archive Council</b></p>	<p>Ownership (checklist)      History/Questions</p>	<ol style="list-style-type: none"> <li>1. Do you have written confirmation from the executors (or other relevant persons) that they have unencumbered title to the object and are able to transfer that title? (if so please supply the original signed confirmation)</li> <li>2. Can you confirm that there are no third party claims against the object?</li> <li>3. Can you confirm, to the best of your knowledge, that no claims are likely to exist?</li> <li>4. When was the object acquired?</li> <li>5. Can you supply proof of the original acquisition of the object (i.e. bill of sale, letter, early photographic or documentary evidence or early publication in a reputable source etc?). If so, please supply a copy of the evidence available</li> <li>6. If it was acquired after 1933, are you able to supply proof of the ownership history between 1933 and 1945? If so, please supply a copy of the evidence available</li> <li>7. If the object was obtained abroad, was it brought to the UK before 1970?</li> <li>8. If the object was obtained from abroad after 1970, do you have an export licence from the country of origin? If so, please supply a copy of the licence.</li> </ol>
<p><b>Museums Association's Ethical Guidelines on Acquisition (2004)</b></p>	<p>Articles 4.1., 4.2., 4.3., 4.4., 4.11., 4.12., 4.13., 4.14</p>	<ol style="list-style-type: none"> <li>4.1. Confirm the legal title of the present owner of the item and the right of the owner to transfer title to the museum. Investigate whether there are any third-party claims on the item</li> <li>4.2. Perform due diligence checks to ensure that there is no suspicion that since 1970 the item might have been exported, acquired, sold, illegally excavated from a monument, site or wreck, or otherwise transferred in contravention of: <ul style="list-style-type: none"> <li>- UK Law</li> <li>- If applicable, the law of the country of origin of the item and the law of any other country through which the item has passed</li> <li>- International law and international conventions on the protection or export of cultural property or natural history conservation. In addition, it is normally unacceptable to acquire antiquities of unknown provenance</li> </ul> </li> <li>4.3. Reject any item that lacks secure ownership history and do not acquire it, unless:</li> </ol>

		<ul style="list-style-type: none"> <li>- there is reliable documentation to show that it was exported from its country or origin before 1970; or</li> <li>- In the best judgements of experts in the field concerned the item is of minor importance and has not been illicitly traded; or</li> <li>- In the case of items of UK origin, the museum is acting as an externally approved repository of last resort</li> <li>- In the case of objects originating outside the UK, the museum is acting as a place of temporary safety</li> </ul> <p>4.4. Under some government policies, laws or conventions there may be procedures to give museums consent to acquire an item that would otherwise be unacceptable under the law or convention. In such cases it is vital to obtain such consent before acquiring the item. It will often be necessary to obtain approval of the government of the country of origin as well as that of the UK government</p> <p>4.11. Decline to offer expertise on, authenticate, or otherwise assist the current possessor of any item that may have been illicitly obtained, unless it is to assist law enforcement or to support other organisations in countering illicit activities. It may be acceptable to record information about suspected illicit items, but do not allow the information to be used inappropriately for personal or institutional benefit. Take advice from impartial experts if necessary</p> <p>4.12. Report any suspicion of criminal activity to the police. Report any other suspicions of illicit trade to other museums collecting in the same area and to organisations that aim to curtail the illicit trade</p> <p>4.13. Avoid appearing to promote or tolerate the sale of any material without adequate ownership history through inappropriate or compromising associations with vendors, dealers or auction houses. Do not borrow items if there is any suspicion that they may be illicit. Refuse to lend items to any exhibition that appears likely to include illicitly traded items</p> <p>4.14. Prior to acquiring an item be aware of the terms and conditions of any funding bodies assisting financially in the acquisition. Consider consequences for the museum in the event of the item being returned to the rightful owner if it later emerges that the item was illicitly traded</p>
<p><b>Museums Association's Code of Ethics (2004)</b></p>	<p>Articles 5.7., 5.8., 5.9., 5.10., 5.11., 5.12., 5.13., 5.14., 5.15., 5.16.</p>	<p>5.7. Exercise due diligence when considering an acquisition or inward loan. Verify the ownership of any item being considered for acquisition or inward loan and the current holder is legitimately able to transfer title or to lend. Apply the same strict criteria to gifts, bequests and loans as to purchases</p> <p>5.8. Reject any item if there is any suspicion that it was wrongly taken during a time of conflict, unless allowed by treaties or other</p>

		<p>agreements</p> <p>5.9. Reject any item if there is any suspicion that it has been stolen, unless in exceptional circumstances, this is to bring it into the public domain, in consultation with the rightful owner</p> <p>5.10. Reject items that have been illicitly traded. Note that the UNESCO convention was finalised in 1970. Reject therefore any item if there is a suspicion that, since 1970, it may have been stolen, illegally excavated or removed from a monument, sit or wreck contrary to local law or other acquired in or exported from its country of origin, or any intermediate country, in violation of that country's laws or any national and international treaties, unless the museum is able to obtain permission from authorities with the requisite jurisdiction in the country or origin</p> <p>5.11. Reject any item that lacks secure ownership history, unless there is reliable documentation to show that it was exported from its country of origin before 1970, or the museum is acting as an externally approved repository of last resort, or in the best judgement of experts in the field concerned the item is of minor importance and has not been illicitly traded</p> <p>5.12. Contact colleagues and appropriate authorities both in the UK and overseas for any information or advice that may be necessary to inform judgement regarding the legitimacy of items considered for acquisition or inward loan</p> <p>5.13. Comply not only with treaties which have been ratified by the UK Government, but also uphold the principles of other international treaties intended to curtail the illicit trade, if legally free to do so</p> <p>5.14. Report any suspicion of criminal activity to the police. Report any other suspicions of illicit trade to other museums collecting in the same area and to organizations that aim to curtail the illicit trade</p> <p>5.15. Avoid appearing to promote or tolerate the sale of any material without adequate ownership history through inappropriate or compromising associations with vendors, dealers or auction houses. Refuse to lend items to any exhibition that is likely to include illicitly traded items</p> <p>5.16. Decline to offer expertise on, or otherwise assist the current possessor of any item that may been illicitly obtained, unless it is to assist law enforcement or to support other organizations in countering illicit activities</p>
<p><b>MLA's Museum Accreditation Standard, 2004</b></p>	<p>Section 8: Acquisition procedures</p>	<p>a) The museum will exercise due diligence and make every effort not to acquire, whether by purchase, gift, bequest or exchange, any object or specimen unless the governing body or responsible officer is satisfied that the museum can acquire a valid title to the item in question</p> <p>b) In particular, the museum will not acquire any</p>

		<p>object or specimen unless it is satisfied that the object or specimen has not been acquired in, or exported from, its country of origin in violation of that country's laws.</p> <p>c) In accordance with the provisions of the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which the UK ratified with effect from November 2002, and the Dealing in Cultural Objects Act 2003, the museum will reject any items that have been illicitly traded. The governing body will be guided by the national guidance on the responsible acquisition of cultural property issued by DCMS in 2005</p> <p>d) So far as biological and geological material is concerned, the museum will not acquire by any direct or indirect means any specimen that has been collected, sold or otherwise transferred in contravention of any national or international wildlife protection or natural history conservation law or treaty of the UK or any other country, except with the consent of an appropriate outside authority.</p> <p>e) The museum will not acquire archaeological antiquities (including excavated ceramics) in any case where the governing body or responsible officer has any suspicion that the circumstances of their recovery involved a failure to follow the appropriate legal procedures, such as reporting finds to the landowner or occupier of the land and to the proper authorities in the case of possible treasure as defined by the Treasure Act 1996 or reporting finds through the Treasure Trove procedure</p> <p>Or The Museum will not acquire any archaeological material.</p>
<p><b>The European Convention on the protection of the Archaeological Heritage-Valletta 1992</b></p>	<p>Article 10</p>	<p>Each party undertakes:</p> <ol style="list-style-type: none"> <li>i. to arrange for the relevant public authorities and for scientific institutions to pool information on any illicit excavations identified</li> <li>ii. to inform the competent authorities in the State of origin which is a Party to this Convention of any offer suspected of coming either from illicit excavations or unlawfully from official excavations, and to provide the necessary details thereof</li> <li>iii. to take such steps as are necessary to ensure that museums and similar institutions whose acquisition policy is under State control do not acquire elements of the archaeological heritage suspected of coming from uncontrolled finds or illicit excavations or unlawfully from official excavations.</li> </ol>
<p><b>Ancient Coin Collectors Guild (ACCG) Board</b></p>	<p>Article 1</p>	<p>Coin Collectors and Sellers will not knowingly purchase coins illegally removed from</p>

<b>Code of Ethics</b>		scheduled archaeological sites or stolen from museum or personal collections, and will comply with all cultural property laws of their own country
<b>A Code of Ethics for Collectors of Ancient Artefacts (version 1, 1<sup>st</sup> March 2009)</b>  (this is just a proposal from a small group on an Internet forum)	Article 1	<b>Protect our archaeological heritage and uphold the law</b> Only buy artefacts which you have reason to believe have been obtained and are offered in accordance with all national laws. <ul style="list-style-type: none"> <li>• Ask the vendor for all relevant paperwork relating to provenance, export etc.</li> <li>• Take extra care if collecting particular classes of object which have been subjected to wide-scale recent looting</li> </ul>
	Article 2	<b>Check your source</b> <ul style="list-style-type: none"> <li>• Verify a vendor's reputation independently before buying. Assure yourself that they are using due diligence in their trading practices, and do not support those who knowingly sell fakes as authentic or offer items of questionable provenance</li> </ul>
	Article 4	<b>Recognise your role as custodian</b> <ul style="list-style-type: none"> <li>• Maintain and update records relating to each artefact, including its provenance. Make sure these records can be connected to the relevant object by a layman</li> <li>• Only buy from vendors who do the same</li> </ul>
	Article 7	<b>Dispose of artefacts responsibly</b> <ul style="list-style-type: none"> <li>• Pass on all information about each piece, particularly its provenance and include as much original documentation as possible</li> </ul>

and also

## Memorandum submitted by the Museums & Galleries Commission, UK

### EXECUTIVE SUMMARY

This submission is on behalf of the Museums & Galleries Commission. The main points it raises can be summarised as follows:

The issues surrounding requests for the return of cultural property are extremely complex, and there is no simple solution. The MGC believes that the responsibility for taking decisions on the return of cultural property should lie with the governing body of the museum, and that each case should be examined individually.

The MGC's publication *Restitution and Repatriation: Guidelines for Good Practice* provides, for the first time, a clear framework for dealing with claims for the return of cultural property and encourages museums to explore the many options open to them, between return or refusal.

The MGC strongly recommends the establishment of a source of advice and information to help museum governing bodies and museum professionals dealing with cultural property issues. The present support offered by the MGC will cease on 31 March 2000.

The MGC recommends that the Government gives serious consideration to acceding to the UNIDROIT and UNESCO Conventions.

### 1. INTRODUCTION

1.1 The Museums & Galleries Commission (MGC) is the national advisory body for museums in the United Kingdom. It promotes the interests of all museums and galleries and undertakes strategic work to raise museum standards. The MGC provides expert and impartial advice, to museums and others, and advises the Government on museum policy. The MGC will close on 31 March 2000, to be replaced by the Museums, Libraries and Archives Council.

## 2. RESTITUTION

2.1 The return of cultural property is an issue of concern to all museums, from the largest national museum to the smallest volunteer-run museum. It is also an issue which affects many types of museum collections, from art and archaeology, to scientific and natural history collections.

2.2 In recognition of this, the MGC has worked closely with the National Museum Directors' Conference (NMDC) and the Museums Association, and represents non-national museums on both the NMDC Working Group on the Spoliation of Works of Art, chaired by Sir Nicholas Serota, and the Museums Standing Advisory Group on Repatriation, chaired by Dr Neil Chalmers.

2.3 Following a recommendation in the Museums Association's 1997 report, *Museums and Repatriation*, the MGC commissioned a set of guidelines to provide authoritative advice for governing bodies and museum staff facing requests for repatriation or restitution of objects. *Restitution and Repatriation: Guidelines for Good Practice* was published in February 2000, and launched at a one-day seminar at the Natural History Museum on 16 March. (A copy of this publication was sent to each member of the Select Committee on 1 March 2000.)

2.4 *Restitution and Repatriation* is the first publication of its kind in Europe to offer impartial, independent advice on preparing a response to a request for the return of cultural property. In doing so, it aims to encourage those museums holding material in their collections which might form the subject of a request for return to be proactive in considering how to handle such requests.

2.5 *Restitution and Repatriation* outlines the following stages in the process of reaching a decision:

- establishing the status of those making the request;
- demonstrating the continuity between the community which created the object, and that making the request;
- assessing the cultural significance of the objects to both the requesting and the museum community;
- researching the acquisition history of the object; and
- determining the fate of the object if returned.

Throughout, it stresses the importance of respecting the concerns of, and working closely with, the requesting party.

2.6 There is no blanket solution to the question of return of cultural property. The MGC believes that responsibility for such decisions should lie with the governing body of the museum and that each case should be examined individually. It is important to bear in mind that, in the case of the return of cultural property, there is no right or wrong answer, and that the issues surrounding such requests—political, ethical and emotional—are extremely complex and need to be investigated thoroughly and on a case by case basis.

2.7 Between the two extremes of returning material and retaining it, there are many options which should be explored. These include:

- long-term loan of the requested object;
- shared ownership;
- a joint research project to enhance the context of the object;
- the provision of a replica/website;
- special storage arrangements; and
- the creation of a joint exhibition.

2.8 As well as looking at past acquisitions, it is important to establish best practice for current acquisitions. As part of the application process for the MGC Registration Scheme for Museums and Galleries in the UK, museums are required to include in their acquisitions and disposal policy paragraphs specifically prohibiting the acquisition of material which may have been acquired illegally (see Appendix I[1]).

## 3. SPOILIATION

3.1 The MGC is committed to ensuring that non-national museums take reasonable steps to identify works of art and artifacts which might have been wrongfully taken during World War II.

3.2 In April 1999, the MGC issued a Statement of Principles on Spoliation (Appendix II[2]) which contains guidance for non-national museums and accords closely with the Statement issued by the NMDC in November 1998. In addition, the MGC has requested designated museums to draw up an action plan for an initial review of their collections, together with an outline of how they intend to undertake the necessary provenance research.

3.3 Many non-national museums lack the resources, funding and expertise to undertake provenance research, which requires a significant investment of staff time. The MGC is supporting them in the following ways:

- a workshop on spoliation to bring together non-national and national museums;
- the establishment of a secure website, to allow non-national and national museums to share information;
- the funding of a short-term advisory post, to provide advice on how best to undertake research and which areas of the collections to target; and
- funding to allow non-national museums to undertake provenance research.

#### 4. ILLICIT TRAFFIC

4.1 In recent years, the MGC has concentrated its efforts on tackling the issues surrounding restitution and repatriation, while the Museums Association has taken the lead on issues surrounding illicit traffic. However, the MGC is strongly in favour of any measures taken to curb the illicit traffic in antiquities and works of art (see Appendix I\*). The MGC supports the Museums Association's requirement for UK museums to observe the UNIDROIT Convention, and would encourage the Government to ratify the UNESCO and UNIDROIT Conventions.

#### 5. PROVISION OF SUPPORT

5.1 The MGC has provided support and advice on cultural property issues for over 10 years, and a member of the management team of the MGC has responsibility for cultural property issues. In addition to publishing *Restitution and Repatriation*, the MGC has added a page on restitution issues to its website which explains the main issues and provides links to other relevant sites ([www.museums.gov.uk/advice](http://www.museums.gov.uk/advice)). This support and advice will cease on 31 March 2000, with the closure of the MGC.

5.2 The MGC believes, in common with the NMDC Working Party and the Museums Standing Advisory Group, that the provision of a single point of contact for information on all restitution, repatriation and spoliation issues is the best way of providing support for museums. Our feeling is that an informal network would be neither appropriate nor effective, and that a formal resource centre is needed to fund the demand for specialist advice. The form such a resource centre might take, how it would be funded and where it would be located are key questions which remain to be answered, as the MLAC consultation document made no mention of these issues.

## APPENDIX 3 – Responses of the Member states by Question and By Member State

### A. For Museums (State or Private)

1. Are there provisions in a national law concerning acquisitions by museums, libraries and archives?

YES= 14; YES partly= 1; NO/YES=1; NO=5

	Response	Relevant provisions
AUSTRIA	NO	
BELGIUM	YES	<p><u>Federal level</u> In the Belgian federal law on the organisation of (national) museums there are no provisions on the deontology to be followed when acquiring pieces for the collections of these institutions.</p> <p><u>Communities</u> The <u>Flemish Parliament Act</u> of 23 May 2008 (as adapted by the Act of 13 March 2009) on the Development, Organisation and Subsidisation of Flemish Cultural Heritage Policy mentions in its article 10, term 1, 8° that - in order to be recognised (and subsidized) – museums, libraries and archives should '<i>comply with the generally accepted deontological rules</i>'. The Implementing Order of 18 July 2008 explicitly states in its article 6 that 'in order to meet the conditions set out in article 10, term 1, 8° the museum personnel shall observe the deontological code as put forward by the International Council of Museums'. The personnel of a cultural archives institution shall observe the deontological code as laid out by the International Council on Archives. The translation of these codes into Dutch is an integral part of this Implementing Order (annexes 1 and 2). The <u>French speaking community</u> has a provision in its Decree (Act of Parliament) of 7 July 2002 on the recognition and subsidizing of museums that directly deals with the provenance of collection pieces. Article 4 of this decree states that collections of recognised museums may not hold any objects, acquired in an illicit way.</p>
CYPRUS	NO	As far as antiquities are concerned, these have to be acquired legally as per the Antiquities Law
CZECH REPUBLIC	NO	

<b>DENMARK</b>	YES	<p>The following provisions in the Museums Act concerns acquisitions by museums:</p> <p><b>§ 16 - (2)</b> The Minister for Culture may grant subsidies for joint tasks, acquisitions and other museum activities.</p> <p><b>§ 33 - (1)</b> It is prohibited for museums to acquire an object if the object has been exported from another country contrary to the legislation of that country and the matter is subject to an international agreement which has been signed by the country in question and Denmark.</p> <p>(2) Any object acquired contrary to subsection (1) shall be returned in accordance with the international agreement mentioned in subsection (1).</p> <p>Libraries, no provisions</p> <p>Archives, no provisions</p>
<b>ESTONIA</b>	YES	<p>Museums have to investigate provenance and former owners of the object they are planning to purchase. - Museum act (1996)<sup>3</sup></p> <p>Regulation in this field is also by "Act on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State of the European Union"</p> <p><a href="https://www.riigiteataja.ee/ert/act.jsp?id=921868">https://www.riigiteataja.ee/ert/act.jsp?id=921868</a></p>
<b>FINLAND</b>	YES	<p>In Finland there are national laws bringing into force both Unesco and Unidroit Conventions (Act 875/1999; Decree 876/1999 and Act 877/1999; Decree 878/1999). Acquisitions by museums, libraries and archives must therefore comply with this legislation</p>
<b>FRANCE</b>	YES	<p>L'acquisition d'un bien culturel destiné à enrichir une collection publique se fait par la consultation de commissions spécialisées qui ont une vocation scientifique et patrimoniale.</p> <p>Pour les collections nationales, dont l'Etat est propriétaire et le musée ou l'institution est affectataire, il existe plusieurs niveaux de décision selon le statut du musée ou de l'institution et la thématique des collections qui leurs sont affectées.</p> <p>En France, en ce qui concerne l'origine de l'oeuvre et son acquisition, il n'y a pas de réglementation nationale qui est imposée en matière de vérifications sur l'origine de l'oeuvre.</p>

<sup>3</sup> **Museums Act**

§ 3. Legal status and function of museum

/.../

(5) A museum shall operate pursuant to this Act, other legislation, international agreements regarding safeguarding of the cultural heritage and its statutes.

**§16. Principles of replenishment of museum collections**

/.../

(2) Upon replenishment of a museum collection, the museum shall, within available means, ascertain the origin of a thing of cultural value such that the museum collection would not contain things which have been acquired illegally in Estonia or in another state or have been exported illegally from another state.

/.../

**§ 19. Bases for exclusion of museum object from museum collection**

(1) A museum object shall be excluded from a museum collection if the museum object:

/.../

5) has been acquired in good faith in violation of the provisions of subsection 16 (2) of this Act and is transferred to the owner or another state.

		<p>Toute une chaîne de consultations précède l'acquisition d'un bien culturel assurant ainsi le contrôle de son origine. Les conservateurs proposant une acquisition se prononcent sur l'intérêt scientifique et patrimonial de l'oeuvre, sur son authenticité et son importance au regard des collections publiques. En parallèle, les services administratifs concernés examinent avec soin les aspects juridiques de l'acquisition. Tous les documents pouvant concourir à préciser l'origine du bien et son parcours historique précis sont recherchés (selon les situations: titres de propriété antérieurs, appartenance à des collections identifiées, preuves de l'importation licite, passage en ventes publiques, présence dans des catalogues raisonnés ou d'expositions...). En cas de doute sur l'origine licite, l'acquisition devra être reportée jusqu'à ce que la documentation soit complète ou simplement rejetée.</p> <p>Cela relève davantage de bonnes pratiques acquises par l'expérience et capitalisées au fil du temps. Mais il n'y a pas pour l'instant de normes définies par des textes. Toutefois des réflexions sont en cours au sein de l'administration et des services patrimoniaux pour définir des modalités de contrôle de l'origine des oeuvres soit par le moyen de règles de déontologie soit par la création d'un comité d'éthique</p>
<b>GERMANY</b>	YES	The German Kulturgüterrückgabegesetz transforms the relevant rules of the 1970 UNESCO convention into German law. This law claims provisions not only for museums but for everyman
<b>GREECE</b>	YES	<p>The museums, whether state and recognized non-state ones, have special obligations and advantages alike, while special provisions govern the enrichment of their collections and the transfer of their objects.</p> <p>According to the provision of the national legislation (law 3028/02 art. 45) and the UNESCO Convention (art. 7, a) the museums are prohibited from acquiring or accepting as loan or trust, cultural objects suspected of coming from theft, illegal excavation or other illegal activity in violation of the legislation of their country of origin and are obliged to inform without undue delay the competent Archaeological Service for every such offer.</p> <p>Any potential new acquisition by a museum or similar institution is declared to the competent authority of the Ministry of Culture, with all the attached documents proving the legality of the object for its potential acquisition. The Ministry then issues accordingly a permission of possession or ownership</p>
<b>HUNGARY</b>	NO	
<b>ITALY</b>	NO	<p>The Italian Code on Cultural Heritage (L.42 22.1.2004) in details: art. 95-100 (expropriation for public utility); art. 60-62 (pre-emptions); art 57 (supply of cultural goods in favour of the state).</p> <p>The proposed acquisition are transmitted from the territory to the Ministry and evaluated by scientific committee.</p>
<b>LATVIA</b>	YES	<p>The Cabinet regulation No 956 "Regulations Regarding the National Holdings of Museums" defines the procedure of supplementation of collections in museums.</p> <p>The Cabinet regulation No 354 "Regulations Regarding the National Collections of Libraries" defines the procedure of supplementation of collections in libraries.</p> <p>The Law on Archives defines the procedure of</p>

		supplementation of archives
<b>LITHUANIA</b>	YES	The Procedure of Acquisition of Museum valuables is defined by the Instruction for the Protection, Accounting and Preservation of Museum Collections approved by the order No IV-716 of the Minister of Culture on 16 May 2005. The Instruction defines that a Museum shall have a right to purchase museum valuables by all lawful means from private and legal entities, antique shops, art galleries, auctions and exhibitions. Museum shall not have a right to purchase museum valuables in the case if there is no reliable information whether these museum valuables are lawfully purchased or imported into the Republic of Lithuania. Museum shall also have a right to purchase museum valuables which are collected during the ethnographic, anthropologic and other scientific expeditions and archaeological researches, which are findings or treasures confiscated under the court ruling, which are acknowledged as ownerless, which become state property under the inheritance law, which are donated to a state by private and legal entities, and which are returned to the Republic of Lithuania by other countries in accordance with the established procedure
<b>LUXEMBOURG</b>	YES partly (only for archives/libraries)	<u>Archives:</u> Archives do not really “acquire”, but the documents to deposit at the Archives are listed in the “Loi du 25 juin 2004 portant réorganisation des instituts culturels de l’Etat”. <u>Museums:</u> ? <u>Libraries:</u> “Règlement grand-ducal du 6 novembre 2009 relatif au dépôt légal”, “Loi du 25 juin 2004 portant réorganisation des instituts culturels de l’Etat” (N.B.: un projet de loi n° 6026 sur les bibliothèques publiques a été déposé en 2009 et ne devrait pas tarder à être voté par la chambre des députés, www.chd.lu)
<b>MALTA</b>	YES	Acquisitions are notified to the Superintendence for Cultural Heritage which is responsible for the upkeep of the National Inventory as specified in the National Cultural Heritage Act (2002)
<b>NETHERLANDS</b>	NO, YES	NO, not specifically for museums and YES for the general legal prohibition in the Implementation Act of the 1970 UNESCO Convention on the Illicit Import, Export and Transfer of Ownership of Cultural Property: It is prohibited to import into the Netherlands cultural property which: a) has been removed from the territory of a State Party in breach of the provisions adopted by that State Party in accordance with the objectives of the Convention in respect of the export of cultural property from that State Party or the transfer of ownership of cultural property; or b) has been unlawfully appropriated in a State Party. (section 3) The return of cultural property imported into the Netherlands in breach of the prohibition referred to in section 3 may be claimed, subject to articles 1011a-1011d of the Code of Civil Procedure, by proceedings brought by the State Party from which the property originates or by the person with valid title to such property. (section 4)
<b>PORTUGAL</b>	YES	The Portuguese Museum Framework Law (Law N.º 47/2007, of August 19 <sup>th</sup> ) that defines the principles of the national museum policy, the juridical regime common to all Portuguese museums and the legal framework for the

		<p>museum acquisition of cultural goods. According to this law, it is mandatory for museums to possess a document on the incorporation policy. Museums must also document their collections (Section IV, Inventory and Documentation). Article 15 (2) establishes that museums must document the propriety rights of acquired cultural goods.</p> <p>On the other hand, the Cultural Heritage Law (Law N° 107/2007, of September 8<sup>th</sup>) that establishes the policy and the regime for the protection and valorisation of cultural heritage defines in article 69 the Commerce and Restitution Regime:</p> <p>Article 69 (1) – In conditions of reciprocity, the transactions in Portuguese territory of cultural goods belonging to the cultural heritage of another State and that are in the national territory in consequence of the violation of their respective protection laws, are null.</p> <p>Article 69 (2) – The cultural goods mentioned in the former number of this article are to be returned in accordance with the terms of the communitarian or international law that binds the Portuguese State.</p> <p>Article 69 (3) – The return of cultural goods belonging to the cultural heritage of other Member States may be limited to the categories of objects stated in communitarian law.</p> <p>Article 69 (4) – The return actions shall be dealt with by judicial courts and their active legitimacy shall be exclusively of the State from where the cultural good has been illegally removed as long as it is a Member State of the U.E. or a State in reciprocity conditions according to Portuguese law.</p> <p>Article 69 (5) – In return actions, only the following will be discussed:</p> <ol style="list-style-type: none"> <li>a) If the object whose return is requested is considered a cultural good in accordance to the applicable rules;</li> <li>b) If, according to the applicable rules, the object was unlawfully removed from its State of origin;</li> <li>c) If its holder or possessor acquired it in good faith;</li> <li>d) The amount to be paid in compensation to the holder or possessor in good faith;</li> <li>e) Other aspects of the conflict of interests which may be discussed in the return action in accordance with the applicable rules of communitarian or international law.</li> </ol> <p>Article 69 (6) – The return action shall not take place when the requested cultural good is part of the Portuguese cultural heritage.</p>
<b>ROMANIA</b>	YES	<p>The acquisition of cultural goods by museums, libraries or archives is governed by the general legislation on public procurement (Emergency Government Ordinance no.34/2006).</p> <p>The legislation related to cultural goods and/or museums and collections does not contain references to specific acquisition procedures to be employed by museums</p>
<b>SPAIN</b>	YES	<p>The Law 16/1985 about the Spanish Historic Heritage and the Royal Decree 111/1986, both have many articles dedicated to the procedure of acquisitions of Collections of State museums, libraries and archives</p>
<b>UK</b>	YES	<p>Under the National Heritage Act 1983, the British Museum Act 1963, and the Museums and Galleries Act 1983, the Boards of specified national museums shall care for,</p>

		preserve and add to objects in their collections. For some national institutions, a minister of the Crown may transfer to the relevant Board any object if, in his or her opinion, it would appropriately form part of their collections. See annex <sup>4</sup> setting out legislation generally relevant to illicit trade
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<sup>4</sup> **Annex for due diligence questionnaire: legislation relating to the prevention of illicit trade**  
Dealing in Cultural Objects (Offences) Act 2003

This act came into force on 30 December 2003. It has no retrospective effect.

A person is guilty of an offence if he dishonestly deals in a cultural object that is tainted, knowing or believing that the object is tainted. Objects are tainted if, after 30 December 2003, they were

- (a) unlawfully excavated, or
- (b) unlawfully removed from a building or structure of historical, architectural or archaeological interest where the object has at any time formed part of the building or structure, or from a monument of such interest

and

Such excavation constituted a criminal offence at the time of such excavation or removal.

An object is not tainted just because it has been unlawfully exported from a country.

“Dealing” for these purposes includes all cases where a person

- (a) acquires, disposes of, imports or exports it,
  - (b) agrees with another to do an act mentioned in paragraph (a), or
  - (c) makes arrangements under which another person does such an act or under which another person agrees with a third person to do such an act.
- (2) “Acquires” means buys, hires, borrows or accepts.  
(3) “Disposes of” means sells, lets on hire, lends or gives.

Failure to carry out due diligence checks on provenance will not constitute knowledge or belief the object is tainted.

Any person found guilty of the offence is liable on conviction in the Crown Court to imprisonment for up to seven years and/or an unlimited fine and on conviction in the Magistrates Court to a maximum of six months imprisonment and/or a fine up to £5,000.

The Act is designed to target irresponsible trading. It aims to inject greater transparency into the process of acquiring and disposing of cultural objects within the art market, so that clear chains of ownership can be established in the event of suspected unlawful removal or excavation. In effect, the Act does not impose further costs in terms of due diligence checks but, rather, formalises them and encourages those not complying with industry-approved standards of good practice to come on board.

Theft Act 1968

22. Handling stolen goods

(1) A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.

(2) A person guilty of handling stolen goods shall on conviction on indictment be liable to imprisonment for a term not exceeding fourteen years.

The Theft Act 1968 extends to goods that have been stolen abroad but does not extend to cases where an item has been illegally excavated or removed in circumstances not amounting to theft.

Iraq (United Nations Sanctions) Order 2003

Under Article 8 of that order,

- (1) The importation or exportation of any item of illegally removed Iraqi cultural property is prohibited.
- (2) Any person who holds or controls any item of illegally removed Iraqi cultural property must cause the transfer of that item to a constable. Any person who fails to do so shall be guilty of an offence under this Order, unless he

proves that he did not know and had no reason to suppose that the item in question was illegally removed Iraqi cultural property.

(3) Any person who deals in any item of illegally removed Iraqi cultural property shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the item in question was illegally removed Iraqi cultural property.

(4) "Illegally removed Iraqi cultural property" means Iraqi cultural property and any other item of archaeological, historical, cultural, rare scientific or religious importance illegally removed from any location in Iraq since 6th August 1990. It is immaterial whether the removal was illegal under the law of a part of the United Kingdom or of any other country or territory.

The definition of "dealing" is that same as in the Dealing in Cultural Objects (Offences) Act 2003.

#### The Export of Objects of Cultural Interest (Control) Order 2003:

Under the Order:

all objects are prohibited to be exported to any destination except under the authority of a licence in writing granted by the Secretary of State, and in accordance with all the conditions attached to the licence.

In addition, any person who either—

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular commits an offence.

#### The Return of Cultural Objects Regulations 1994

These regulations put the government under an obligation to take various steps to ensure the return of cultural objects which have been unlawfully removed from the territory of a member state on or after 1 January 1993.

(4) Subject to paragraph (5) below, the Secretary of State—

- (a) shall take steps to enable the competent authorities of the member State concerned to check that the object in question is a cultural object;
- (b) shall take any necessary measures, in cooperation with the member State concerned, for the physical preservation of an object which appears as a result of such a check to be a cultural object;
- (c) shall prevent, by the necessary interim measures, any action to evade the return procedure set out in these Regulations.

The government is given the necessary powers to implement this – including powers of entry and search.

#### Customs & Excise Management Act 1979 (section 68)

The consequence of the prohibition set out above is that anyone who exports a object of cultural interest which is subject to the 2003 Order without a licence, or in breach of a condition attaching to the licence commits an offence under section 68 of the 1979 Act:

(1) If any goods are—

- (a) exported or shipped as stores; or
- (b) brought to any place in the United Kingdom for the purpose of being exported or shipped as stores, and the exportation or shipment is or would be contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment, the goods shall be liable to forfeiture and the exporter or intending exporter of the goods and any agent of his concerned in the exportation or shipment or intended exportation or shipment shall each be liable on summary conviction to a penalty of three times the value of the goods or level 3 on the standard scale, whichever is the greater.

(2) Any person knowingly concerned in the exportation or shipment as stores, or in the attempted exportation or shipment as stores, of any goods with intent to evade any such prohibition or restriction as is mentioned in subsection (1) above shall be guilty of an offence under this subsection and may be arrested.

The offence under section 68(1) is one of absolute liability (it is not necessary to prove that the defendant intended to commit the relevant act). The offence under section 68(2) requires proof of knowledge and intent to evade the prohibition.

Theft Act 1968, and in particular section 22, under which it is an offence to handle stolen goods. This applies whether the theft took place in the UK or elsewhere (where antiquities are state property under the law of the relevant country, export of such antiquities without the required permission will be theft, and anyone dealing with them may be prosecuted for handling stolen goods.

(A person handles stolen goods if (otherwise than in the course of the stealing) knowing or believing them to be stolen goods he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.)

#### The Protection of Cultural Objects on Loan (Publication and Provision of Information) Regulations 2008

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These Regulations set out the information which must be published by a museum or gallery (“the borrowing institution”) which borrows an object from abroad for a temporary public exhibition if that object is to be protected from seizure or forfeiture under Part 6 of the Tribunals, Courts and Enforcement Act 2007.

#### The Tribunals, Courts and Enforcement Act 2007

The Act provides protection for objects on loan from abroad in temporary public exhibitions in museums and galleries in the UK where certain conditions are satisfied. The legislation was introduced in response to concerns from museums that an increasing number of international lenders were refusing to lend items to UK museums without a guarantee of their safe return.

Where the conditions for protection are met, a court cannot make an order to seize an object that has been loaned from abroad for an exhibition, except where the court is required to make that order under EU law or the UK’s international obligations. Under section 134 of the Act, an object is only protected from seizure if all the conditions set out in section 134(2) of the Act are met when the object enters the UK.

#### Holocaust (Return of Cultural Objects) Act 2009

The Act gives the governing bodies of the national institutions named in the Act a power to transfer an object, which it is claimed was taken from its rightful owner during the period of the Nazi regime, from their collection and return it to the claimant, provided that the Spoliation Advisory Panel recommends return and Ministers agree, thus putting them on the same footing as other museums which can make such returns. The Act expires on 12 November 2019. The power extends to national institutions in Scotland, following the agreement of the Scottish Parliament. The power is not needed in Wales and Northern Ireland, where museums can return such items.

#### EU Regulations

##### Council Directive 93/7/EEC

The purpose of the Directive is to ensure the return of cultural objects classed as "national treasures possessing artistic, historic or archaeological value" under national legislation or administrative procedures, provided that they:

- fall within one of the categories listed in the Annex to the Directive;
- form an integral part of public collections recorded in the inventories of museums, archives or libraries or those of ecclesiastical institutions.

To apply the Directive, Member States may class an object as a national treasure even after it has left their territory. They may also extend the scope of application to cultural objects that do not belong to any of the categories listed in the Annex.

The Directive applies where such objects have been removed from the territory of a Member State unlawfully, i.e. in breach of the legislation in force there or of the conditions under which temporary authorisation was granted. Consequently the objects must be returned, irrespective of whether they have been moved within the Community or first exported to a non-member country and then re-imported to another Member State.

The Directive applies only to cultural objects unlawfully removed from the territory of a Member State on or after 1 January 1993. However, Member States may broaden the scope to include objects which have been unlawfully removed from their territory before 1 January 1993.

##### Council Regulation (EEC) 3911/92

This makes the export of cultural goods outside the customs territory of the Community subject to the presentation of an export licence. “Cultural goods” for this purpose are those goods which fall within the terms of the Annex to the Regulation. The form of that licence is prescribed in Commission Regulation (EEC) 752/93

#### International law

The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970). The UK ratified that Convention on 1/8/2002 (it came into force for the UK on 1/11/2002).

The Convention has as its purpose the prevention of illicit import, export and transfer of ownership of cultural property. It was adopted by UNESCO in 1970. Currently there are 91 states parties to the Convention and a number of further states are currently considering becoming parties. The Convention is not retroactive: it is applicable only to cultural objects stolen or illicitly exported from one state party to another state party after the date of entry into force of the Convention for both states concerned.

**2. Is there a control by a national authority of the acquisition procedures by a museum, library, archive?**

<b>YES= 12 ; NO= 9</b>		
	<b>Response</b>	<b>Relevant provisions</b>
<b>AUSTRIA</b>	NO	
<b>BELGIUM</b>	YES	<p>Within the national museums (federal level) no formal acquisition procedures have been laid out. Self regulation and the wish of the museums to comply with the ICOM Code however result in sufficient awareness at the level of the museum staff in order to be very critical in acquiring collection pieces. Only if sufficient provenance can be given, the purchase of a collection object is considered.</p> <p>In the museums organised at the level of the French and Flemish Community the same awareness is present. Whereas Flemish museums, archives and libraries are concerned this awareness is strengthened by the legal obligation for a recognised heritage institution to comply with the ICOM and ICA-deontological codes. An organisation that acquired a Quality Label (recognition) must maintain at all times the same quality level (including the compliance to these Codes). The Arts and Heritage Agency of the Flemish Community sees to this on the base of an annual report and a more profound evaluation once every five years. In case of doubt a committee of experts will visit the organisation to check whether or not the recognition of the museum should be reconsidered and to suggest improvement measures to be laid upon the museum. The museums of the French Community are controlled in a very similar way.</p>
<b>CYPRUS</b>	NO	There is a need for the formalisation of a procedure by which museums will be obliged to notify the competent authority with regards to acquisitions made
<b>CZECH REPUBLIC</b>	YES	The seller has to document in writing the provenance and ownership of the item offered to a public institution
<b>DENMARK</b>	NO	
<b>ESTONIA</b>	NO	
<b>FINLAND</b>	NO	In our experience there is no need to control the acquisition procedures of museums, libraries or archives since they are run by professionals who follow ICOM's Code of Ethics. Each acquisition is individually and thoroughly examined. Every effort is made and due diligence followed to ensure the lawful origins/provenance of cultural goods. This is considered as a basic principle of our collections policies
<b>FRANCE</b>	YES	As in Q.1
<b>GERMANY</b>	YES	
<b>GREECE</b>	YES	As in Q1. According to Presidential Decree 191/2003 (art.10) "On the Structure of the Hellenic Ministry of Culture", the Directorate of Museums, Exhibitions and Educational Programmes is the designated competent authority for this control
<b>HUNGARY</b>	NO	
<b>ITALY</b>	YES	The territorial offices of the Ministry of Cultural Heritage submit the proposals of acquisition to the competent Directorate of the Ministry which provide the authorization based on scientific valuations and economic funds
<b>LATVIA</b>	YES	<p>The Ministry of Culture supervises accordance of acquisition procedures to the "Regulations Regarding the National Holdings of Museums" and to the mission of the museum during museum accreditation process.</p> <p>The Ministry of Culture supervises accordance of acquisition</p>

		<p>procedures to the “Regulations Regarding the National Holdings of Collections of Libraries” during the accreditation process of libraries.</p> <p>Directorate General of State Archives supervises acquisition procedures by archives. Starting from year 2011 this function will be transferred to the National Archives of Latvia.</p>
<b>LITHUANIA</b>	YES	Internal Audit by the Ministry of Culture or National Audit of the Republic of Lithuania (for state museums)
<b>LUXEMBOURG</b>	NO	
<b>MALTA</b>	NO	In the case of National Museums the control is internal and is based on a policy which is in turn based on the National Cultural Heritage Act.
<b>NETHERLANDS</b>	YES	<p>The following are responsible for supervising compliance with the provisions of this Act and for carrying out the requisite investigations:</p> <p>a) the inspector referred to section 1 (f) of the Cultural Heritage Preservation Act and the officials referred to in section 15, subsection 1 of that Act, and</p> <p>b) customs officials of the Tax and Customs Administration.</p> <p>(section 8 Implementation Act of the 1970 UNESCO Convention)</p>
<b>PORTUGAL</b>	YES	<p>The Portuguese Institute of Museums and Conservation (IMC) centrally controls the acquisitions for the dependent 35 museums and palaces although there is no national authority that controls the totality of museums. However the Portuguese Museum Framework Law (Law N° 47/2007, of August 19<sup>th</sup>) is applicable to all museums.</p> <p>The museums under the tutelage of IMC have the duty to cautiously verify the provenance of their acquisition proposals. They are instructed to personally inspect the items, to research their original origin as well seek advice from other museum experts.</p> <p>The acquisition proposal must be accompanied by a declaration signed by the owner of the cultural good assuring that he is its legal owner, that he is empowered to sell or donate it and to transfer its property to the museum and that, to his knowledge, no third party has claims over the item. Finally it must include all trade documents related to purchases at auction or by private treaty.</p>
<b>ROMANIA</b>	YES	<p>The control of acquisition procedures by a museum library or archive is conducted in a similar way for all public funded institutions.</p> <p>There are several structures entitled to control and sanction the way public funds are spent. For acquisitions engaged from public funds the main control structures are: The National Authority for the Regulations and Monitoring of the Public Acquisitions, the Unit for the Coordination and Clearance of Public Acquisitions and the Court of Accounts. The control pursued is not specifically related to the acquisition of cultural goods. It is aimed, rather, at verifying the correctness of followed procedures according to the general legislation on public procurement/acquisitions.</p> <p>None of these structures are competent to verify acquisitions of cultural goods from the point of view of accurate documentation of provenance.</p> <p>If suspicious transactions are reported, the authority that coordinates the activity of a museum (in the case of a public funded museum) is entitled to dispose controls and, depending on the results of the control, to enforce administrative sanctions</p>
<b>SPAIN</b>	YES	In the same legislation and also in the Law about Public

		Contracts there is a regulation about a College Organism. This is the Board for Qualification, Valuation and Exportation of Cultural Goods in the Spanish Historic Heritage, depending of the Ministry of Culture, which has to study and approve all State acquisitions of cultural goods
UK	NO	There is no general control. However, as stated above, Ministers have the power to transfer objects to the collections of some national museums

**3. Have the provisions of ICOM's Code of Ethics concerning acquisition been embodied in a national law**

YES= 8 ; NO= 13		
	Response	
AUSTRIA	NO	
BELGIUM	YES	See the answers to the first questions.
CYPRUS	NO	
CZECH REPUBLIC	NO	
DENMARK	YES	
ESTONIA	YES	
FINLAND	NO	
FRANCE	NO	
GERMANY	NO	
GREECE	YES	Article 45 of national law 3028/2002 embodies provisions of the Code of Ethics concerning acquisition. It is worth noting that the ICOM's Code of Ethics is also available in Greek thanks to the efforts of the Hellenic National Committee of ICOM, which was set up in 1983 and since then it has been very dynamic, organising lots of training sessions, seminars, open days for furthering awareness on the value of museums and their collections. Some of these open seminars tackled also the issue of protection of cultural heritage from illicit trafficking
HUNGARY	NO	
ITALY	YES	
LATVIA	YES	Besides, in the by-laws of every museum there is a paragraph, which says, that the museum observes ICOM Code of Ethics in its operation
LITHUANIA	YES	The provisions of ICOM's Code of Ethics are emphasized in founding documents of state museums
LUXEMBOURG	NO	
MALTA	NO	
NETHERLANDS	NO	Museums in the Netherlands must subscribe to the ICOM Code of Ethics, in order to be a registered museum. However, the ICOM Code of Ethics is not legally binding; the compliance with the Code can only be achieved via self-regulation. This means that museums can decide by themselves in order to deviate. There is no supervision on these rules by a governmental body
PORTUGAL	YES	Although the Portuguese Museum Framework Law (Law N.º 47/2007, of August 19 <sup>th</sup> ) does not include the dispositions contained in Chapter 3 / Acquisitions to Museum Collections of ICOM's Code of Ethics, we may consider that it does contain some of its principles. According to the above mentioned law, museums must possess a document on their incorporation policy (article 12) and they must document their collections (Section IV, Inventory and Documentation). In general, museums recognise and include the provisions of ICOM's Code of Ethics in their documents on the incorporation policy
ROMANIA	NO	

<b>SPAIN</b>	NO	However, the Board for Qualification, Valuation and Exportation of Cultural Goods in the Spanish Historic Heritage has in consideration when studies the acquisitions
<b>UK</b>	NO	

4. Are the museums made aware by the national authority or body about the 1970 Unesco provisions concerning acquisitions, export authorisation and obligation of dealers (art. 6, 7, 10)? a) If yes, please specify in which way (i.e. seminars, circulars, guidelines, etc.); b) Please state the level of application of these articles (6, 7, 10) and the tools for adhering to the Convention. Please give examples

<b>YES= 14 ; NO= 5 ; NOT RATIFIED=2</b>			
	<b>Response</b>	<b>In which way (i.e. seminars, circulars, guidelines)</b>	<b>Level of application of these articles (6, 7, 10) and the tools for adhering to the Convention</b>
<b>AUSTRIA</b>	Not ratified		
<b>BELGIUM</b>	YES	Belgium only recently acceded to the Unesco '70 Convention and is now drafting the necessary laws to transpose the convention into Belgian law. However museums are informed by seminars, information sessions and printed materials on the international legislations regarding the protection of cultural heritage. For instance illicit traffic of archaeological and cultural objects from Afghanistan, cultural spoils of World War II)	The law(s) on the transposition of the Unesco '70 convention should be voted by the parliament(s) by end of 2010. Afterwards information sessions for all concerned parties in Belgium will be planned.
<b>CYPRUS</b>	NO	Government archaeological museums (national authority) are aware but not private ones	
<b>CZECH REPUBLIC</b>	NO		
<b>DENMARK</b>	YES	Guidelines are communicated by the Heritage Agency of Denmark to all relevant museums.	§ 33 in the Museums act
<b>ESTONIA</b>	NO		
<b>FINLAND</b>	YES	In Finland there are national laws bringing into force both Unesco and Unidroit Conventions (Act 875/1999; Decree 876/1999 and Act 877/1999; Decree 878/1999). Acquisitions by museums, libraries and archives must therefore comply with this legislation	National legislation brings into force the Unesco Convention (cf. answer to question no. 1). The national Act on Restrictions to the Export of Cultural Objects (115/1999) together with the Decree on Restrictions to the Export of Cultural Objects (189/1999) state the provisions for export (article 6). The Act on the return of cultural objects unlawfully removed from the territory of a Member state of the European Economic Area (1276/1994) together

			<p>with the national legislation that brings into force the Unidroit Convention state the provisions for the return procedures (article 7). Cooperation with and informing of the dealers has been intensified. Information to the public is made available. (article 10)</p> <p>In Finland there is no national legislation on the import of cultural objects except in cases where a request has been made for the return of the object into the country of origin. As far as Unesco and Unidroit Conventions are concerned this applies to requests from countries that have ratified or accepted these Conventions. Otherwise there are no legal means of controlling the import of cultural objects in Finland.</p> <p>In 2007 a committee was assigned by the Ministry of Education to examine how to prevent illegalities such as illicit trafficking of cultural goods. One of the resolutions of this committee was that the existence and need of import legislation in different member states should be examined and discussed further.</p>
<b>FRANCE</b>	YES		
<b>GERMANY</b>	YES	They are aware of the German Kulturgüterrückgabegesetz which transforms the relevant rules of the convention into German national law	
<b>GREECE</b>	YES	<ul style="list-style-type: none"> <li>• Incorporation of the Unesco Convention to our national law [N. 1103/1980 (Official Gazette 297/A/29-12-1980) for the implementation of the Unesco Convention "On the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris 1970)]. National law 3028/02 provides sanctions for breaching the provisions of the Convention. Terms concerning the provisions of Unesco 1970 are included in the Ministerial Documents</li> </ul>	

		<p>granting permission of possession or ownership of cultural goods to possessors or collectors (private or legal entities)</p> <ul style="list-style-type: none"> <li>• Circulars as well as oral recommendations and consultation to museum curators</li> </ul>	
<b>HUNGARY</b>	YES	<p>All relevant information can be accessed through the web page of the National Office of Cultural Heritage (KÖH). ICOM Ethics of Acquisition was translated in 2005 and disseminated in printed leaflets, too.</p>	<p>Legislation was amended only for procedural reasons but no other basic changes were accomplished. Cooperation of the National Office of Cultural Heritage (KÖH) and the national customs (Hungarian Customs and Finance Guard) resulted in common participation in the Single Window Customs Procedure Project, 2007-2010. Aims of the project a.o. are closer cooperation between concerned state agencies and making more use of IT facilities. In the framework of the project the following goals should be reached at latest 15/06/2010:</p> <ul style="list-style-type: none"> <li>▪ direct access for customs to the database of export licences of cultural goods</li> <li>▪ creating the possibility of electronic licensing</li> <li>▪ connecting the present databases of classified, exported and stolen cultural goods</li> <li>▪ adaptation of the French TREIMA 2 stolen art database software</li> </ul> <p>Just for clarification: a separate database of stolen cultural goods does exist (since 2004) and is maintained by KÖH. (Details see later.)</p>
<b>ITALY</b>	NO	<p>Since the institution of the ministry (1975) circulars have been issued and seminars have been organised</p>	<p>Italian laws are more restrictive than ICOM recommendations and no museum can claim the property of any object which proves to have been illegally exported or illegally sold or acquired. Before international agreements (Unidroit) no immunity was intended for anyone who would have bought something of illegal provenience</p>
<b>LATVIA</b>	NO		
<b>LITHUANIA</b>	YES		<p>Lithuania ratified the Convention in November 1998 (it has status of national law which means that all following up legal acts are associated with this). A new legal acts associated with the export of movable cultural property and antiques have entered into force</p>

			<p>on 1 July 2009:</p> <ol style="list-style-type: none"><li>1) New Version of the Law on Protection of Movable Cultural Property (3 July 2008, No X-1682);</li><li>2) Resolution of the Government Amending the Resolution on the Approval of Procedure for Exporting of Movable Cultural Property and Antiques from the Republic of Lithuania and the List of Movable Cultural Property and Antiques the Export of Which Requires a Licence (Permit) Issued by the Department of Cultural Heritage under the Ministry of Culture (10 June 2009, No 618);</li><li>3) Resolution of the Government on the Approval of Description of Procedure for Purchasing by the State of Antiques Possessing Cultural Value for Which a Licence (Permit) for Permanent Export are not issued (17 June 2009, No 635);</li></ol> <p>The above mentioned legal acts are published in Lithuanian on a website of the Department of Cultural Heritage (<a href="http://www.kpd.lt">www.kpd.lt</a>; <a href="http://www.heritage.lt">www.heritage.lt</a>).</p> <p>There are currently two forms of Licences (Permits) used for the export of movable cultural property and antiques from the Republic of Lithuania:</p> <p>Form No 1 – European Community. Movable cultural property. The form was approved by the Commission Regulation (EC) No 656/2004 of 7 April 2004 amending Regulation (EEC) No 752/93 laying down provisions for the implementation of Council Regulation (EEC) No 3911/92 on the export of cultural goods. This form is used only in the cases when a cultural property intended for export corresponds to the financial thresholds laid down by the Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (Codified version);</p> <p>Form No 2 – The Republic of Lithuania. A License (Permit) for the export of movable cultural property and antiques from the Republic of Lithuania (the territory of the European Community). This form was approved by the order No IV-444 of the Minister of Culture on 31 December 2004 and is used only in the cases when a cultural property intended for export corresponds to</p>
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			<p>the requirements of the Procedure for Exporting of Movable Cultural Property and Antiques from the Republic of Lithuania and the List of Movable Cultural Property and Antiques the Export of Which Requires a Licence (Permit) Issued by the Department of Cultural Heritage under the Ministry of Culture (approved by the Resolution No 1424 of the Government on 9 November 2004).</p> <p>For the export of movable cultural property and antiques from the Republic of Lithuania to other Member States of the European Union there is used another form of Licence (Permit) approved the order No I-474 of the Director of the Department of Cultural Heritage under the Ministry of Culture on 2 December 2004. This form is used only in the cases when a cultural property intended for export corresponds to the requirements of the Procedure for Exporting of Movable Cultural Property and Antiques from the Republic of Lithuania and the List of Movable Cultural Property and Antiques the Export of Which Requires a Licence (Permit) Issued by the Department of Cultural Heritage under the Ministry of Culture (approved by the Resolution No 1424 of the Government on 9 November 2004). This Licence (Permit) is a guarantee that a cultural property listed in a License is not in a search as stolen or unlawfully removed and therefore can be lawfully exported from Lithuania</p>
<b>LUXEMBOURG</b>	Not ratified		
<b>MALTA</b>	YES	Internal communications and guidelines	National museums share a common acquisitions office and therefore any regulation and application of rules is done through this
<b>NETHERLANDS</b>	YES	In general it can be said that museums in the Netherlands are aware of the 1970 UNESCO Convention and ICOM provisions. The Ministry of Education, Culture and Science has taken the lead in a communication strategy around the recently implemented 1970 UNESCO Convention in the	<p>The system of applying for export licenses is in force as of 1993 with Regulation (EG) nr. 116/2009.</p> <p>The Implementation Act 1970 UNESCO Convention (12 June 2009, Bulletin of Acts, Orders and Decrees 2009, nr 255) has the obligation for the general public, art trade and auction houses to act in a reasonable way when considering the acquisition of cultural goods and to make every reasonable effort</p>

		<p>Netherlands, to make cultural heritage institutions (libraries, archives, museums, ecclesiastical institutions) more aware of the implications of the 1970 UNESCO Convention, together with the cultural branch organisations. The communication strategy (2009-2011) has indicated <u>four target groups</u>: general public, art trade, supervisors and cultural heritage institutions. <u>Products</u> are: brochures on cultural legislation, several seminars for the art trade and cultural heritage institutions, brochure for the general public on proper registration and photo documentation of cultural goods, as well as media attention.</p>	<p>regarding due diligence in checking the provenance of cultural objects. Chapter 3, section 6, art. 87A of the Implementation of the 1970 UNESCO Convention reads as follows:</p> <ol style="list-style-type: none"> <li>1. To determine whether a possessor has exercised due diligence in acquiring cultural property as referred to in section 1 (d) of the 1970 UNESCO Convention on the Illicit Import, Export and Transfer of Ownership of Cultural Property (Implementation) Act, account is taken of all circumstances of the acquisition, in particular:             <ol style="list-style-type: none"> <li>a) the capacity of the parties;</li> <li>b) the price paid;</li> <li>c) whether the possessor consulted every reasonably accessible register of stolen cultural property and any other relevant information and documentation which he could reasonably have obtained and whether the possessor consulted accessible agencies;</li> <li>d) whether the possessor took all steps that a reasonable person would have taken in the circumstances.</li> </ol> </li> <li>2. A dealer as referred to in article 437 of the Criminal Code will not be deemed to have exercised due diligence in accordance with article 86b, paragraph 2 in acquiring cultural property if he has failed to:             <ol style="list-style-type: none"> <li>a) ascertain the identity of the seller;</li> <li>b) require the seller to provide a written declaration that he is competent to dispose of the property;</li> <li>c) record in the register to be kept by him the provenance of the cultural property, the name and address of the seller, the purchase price paid to the seller and a description of the cultural property;</li> <li>d) consult the registers of stolen cultural property which it would be appropriate to consult in the circumstances, given the nature of the cultural property.</li> </ol> </li> <li>3. An auctioneer who does not fulfil the requirements of due diligence referred to in paragraphs 1 and 2 when accepting cultural property for public auction or who returns this cultural property to the person presenting it for public auction without having fulfilled these</li> </ol>
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			requirements of due diligence acts unlawfully in relation to the persons who are able to institute proceedings for return as referred to in article 86b.
<b>PORTUGAL</b>	YES	Presently the 1970 UNESCO Convention is included in the body of laws that is considered museum heritage. In recent times, IMC hasn't organized any actions regarding the diffusion among the museums professionals of the 1970 UNESCO Convention. Nevertheless provisions concerning acquisitions, export authorisation and the obligations of art dealers (articles 6, 7, 10) are, to some extent, considered in national legislation.	<p>According to the Cultural Heritage Law (Law N° 107/2007, of September 8<sup>th</sup>) the export and the expedition (removal to another member State) of a cultural good must be communicated to the cultural heritage authority 30 days prior to its departure. The export of a cultural good must be accompanied by an authorisation issued by the cultural heritage authority. An authorisation is issued for the expedition of cultural goods although there is no official authorisation model. The communitarian legislation, namely EC Regulation 116/2009, of December 18<sup>th</sup> 2008, is applicable to the export of cultural goods.</p> <p>Article 7 of the 1970 UNESCO Convention bears correspondence to the already mentioned article 69 of the Cultural Heritage Law (Law N° 107/2007, of September 8<sup>th</sup>), to article 12 and Section IV of the Portuguese Museum Framework Law (Law N.º 47/2007, of August 19<sup>th</sup>) as well as to the document on the incorporation policy that is produced by museums and approved by their respective ruling authorities.</p> <p>In IMC's Web site there is detailed information on legislation, rules and regulations, as well as procedures concerning the circulation of movable cultural goods<sup>5</sup></p> <p>In respect to article 10 of the 1970 UNESCO Convention, article 69 (7) of the Cultural Heritage Law (Law N° 107/2007, of September 8<sup>th</sup>) establishes that the development law shall regulate the acquisition, sale and commerce of antiques and other movable cultural goods, while article 96 establishes the mandatory creation of services that monitor specifically the commerce of art and antiques. The coordination of such services belongs to IMC as is stipulated in its internal organisation</p>

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[http://www.ipmuseus.pt/Data/Documents/Recursos/Regulamentos/ExpediçãO\\_Bens\\_Culturais/Guia%20de%20Procedimentos.pdf](http://www.ipmuseus.pt/Data/Documents/Recursos/Regulamentos/ExpediçãO_Bens_Culturais/Guia%20de%20Procedimentos.pdf)

			<p>law (Law 97/2007, of March 29<sup>th</sup>) but up to this moment neither the development law has been issued nor have the mentioned services been created.</p> <p>The internal organisation law of the Judiciary Police, issued in 2000, made it mandatory for cultural goods dealers to periodically present to the mentioned police the record of their acquisitions which could not be sold for a period of 20 days after the presentation of the records. The present organisation law of the Judiciary Police (Law N° 42/2009, of February 12<sup>th</sup>) has altered the mentioned obligation; cultural goods dealers must be previously notified before presenting their records.</p> <p>On the other hand, the Code of Ethics of the National Association of Antique Dealers (<a href="http://www.apa.pt/index.pl?id=3249">http://www.apa.pt/index.pl?id=3249</a>) establishes in article 3 that the antique dealer must verify the origin of the objects to be purchased as well as the identity of their proprietors or sellers. The same article also establishes that the antique dealer must be fully aware of the legal requirement of weekly reporting their purchases to the Judiciary Police, in accordance to Law 275-A/2000, of November 9<sup>th</sup>, or to any other law that might replace it.</p> <p>The National Association of Antique Dealers was created in 1990 and its current 57 associates include the most relevant professionals in the field. The associates are subject to a Code of Ethics (<a href="http://www.apa.pt/index.pl?id=3249">http://www.apa.pt/index.pl?id=3249</a>) and the Association is a member of the Confédération Internationale des Négociants d'Œuvres d'Art (CINOA) since 1996.</p>
<b>ROMANIA</b>	YES	<p>The 1970 UNESCO Convention has been ratified by law no.79/1993, thus the provisions of the Convention are already public knowledge. Further more, the provisions of the article 6, 7, and 10 are also embodied in the text of the organic law regarding the</p>	<p>With regard to Article 6 of the Convention the national legislation provisions the compulsory issuance of export certificates. Procedures related to the procurement and the use of such certificates is also stipulated. With the sole exception of contemporary cultural goods, all cultural goods circulate outside the national territory on the basis of an export certificate/ authorisation. The</p>

		<p>protection of the movable national cultural heritage (Law no.182/2000) as well as in the relevant subsequent legal norms (the Government Decision no. 1420 of the 4th of December 2003 on the approval of the Norms regarding the movable cultural goods trade)</p> <p>The relevant legislation is made public through the Official Monitor and is also available online at <a href="http://www.cultura.ro">www.cultura.ro</a>, <a href="http://www.cultura-net.ro">www.cultura-net.ro</a>, <a href="http://www.cimec.ro">www.cimec.ro</a> as well as on other culture related web-sites.</p>	<p>removal of movable cultural goods outside the national territory without the prior obtaining of a proper authorisation is considered a crime and is punished accordingly (with imprisonment). The competence of issuing export certificates/authorisations has been granted to the de-centralized services of the Ministry of Culture and National Heritage. The relevant national legislation in this case is the law regarding the protection of the movable national heritage (law no.182/2000) and the Government Decision no. 518 of 7th of April 2004, on the approval of the methodological norms regarding temporary or permanent exportation of movable cultural goods.</p> <p>The principles expressed in the article 7 of the Convention, have been integrated with the law on the protection of movable cultural heritage (Law no182/2000, Chapter IX and X and art.89) mainly in the process of transposing the Council Directive 93/7 EEC.</p> <p>In what concerns the Art.10 of the Convention, the obligation of maintaining a register comprising information related to cultural goods offered for trade is provisioned both in the law regarding the protection of the movable national heritage (Law no.182/2000) and the norms regarding the movable cultural goods trade</p>
<p><b>SPAIN</b></p>	<p>YES</p>	<p>The technical people in Museums know these legal provisions because is an obligation for accessing to the State working level. In addition, the Spanish Ministry of Culture organises seminars of formation of the new civil servants and specifically for curators and conservators there are sections of national and international regulations about cultural heritage</p>	<p>The Convention of 1970 is transposed to the Spanish law as Tool of Ratification (BOE 5/02/1986).</p> <p>Additionally, the article 6 of the Convention is regulated in the Law 16/1985, article 5, and also in the Royal Decree 111/1986, article 45 to 57. Moreover, with general character it is forbidden the exportation of cultural goods within the high level of protection (BIC) and those what are as prevention declared no exportable.</p> <p>About the article 7 of the Convention, the Spanish Administration works very close with the national authorities (Police, Customs, Judicial Bodies, Culture Regions), and following the instructions about the European Cooperative</p>

			<p>Administration made by the EU Committee of Cultural Goods, is also working with the EU homologues authorities.</p> <p>In application of the Tools of Ratification of the 1970 Convention, article 10, there is the article 26 of the Law 16/1985 that points out the antiquaries obligatory must take a register book about the sell or purchasing, with all type of indications. Also, they have to confirm the legal origin of items before to acquire them</p>
UK	YES		<p>All cultural objects more than 50 years old and above specified thresholds need an export licence. This is publicised on the Department for Culture, Media and Sport (DCMS) website, the website of the Museums, Libraries and Archives Council (MLA), which is responsible for issuing export licences for items of cultural interest on behalf of the Secretary of State. It is also publicised on 'Cultural Property Advice' a website commissioned by the Museums, Libraries and Archives Council (MLA), with funding from the DCMS, to provide a comprehensive on-line advisory service to help members of the trade, those working in public collections and members of the public to collect, buy and sell art, antiques and antiquities legitimately. Staff working in the Acquisitions, Export and Loans Unit at MLA have regular contact with staff in public institutions over applications to export cultural goods and in connection with applications for Government Indemnity under the Government Indemnity Scheme.</p> <p>In 2005, DCMS issued guidance entitled 'Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material'. This guidance, which refers to the 1970 UNESCO Convention, has been drawn to the attention of relevant institutions and is published on DCMS's website. The Cultural Property Advice website (referred to above) also highlights this document and provides further advice designed to ensure that those working in public institutions are aware of their obligations to ensure they acquire</p>

			<p>only legitimate items. This includes specific reference to the 1970 UNESCO Convention.</p> <p>In 2004, DCMS issued 'Guidance for Dealers and Auctioneers in Cultural Property' which explains what the UNESCO Convention means for dealers and auctioneers and includes an explanation of the need to keep adequate records. (Failure to keep proper records would be a VAT offence – see further answer to question 29.)</p> <p>See annex for legislation relevant to the prevention of illicit trade</p>
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**5. Are the museums made aware by the national authority or body of the Unidroit provisions, on due diligence (article 4)? (Note: for member states that have ratified or accepted the Convention)**

<b>YES= 9 ; NOT RATIFIED= 5; NOT in FORCE= 1; NO= 7</b>			
	<b>Response</b>	<b>In which way (i.e. seminars, circulars, guidelines)</b>	<b>Level of application of these articles (6, 7, 10) and the tools for adhering to the Convention</b>
<b>AUSTRIA</b>	Not ratified		
<b>BELGIUM</b>	NO	Belgium did not adhere to the Unidroit-convention. Priority is given to the implementation of the Unesco '70 convention	As response 4a
<b>CYPRUS</b>	NO		
<b>CZECH REPUBLIC</b>	Not ratified		
<b>DENMARK</b>	Not ratified		
<b>ESTONIA</b>	Not ratified		
<b>FINLAND</b>	YES	National legislation brings the Unidroit Convention into force. Co-operation between national authorities has been intensified	As response 4
<b>FRANCE</b>	NO		
<b>GERMANY</b>	YES		
<b>GREECE</b>	YES	<ul style="list-style-type: none"> <li>• Incorporation of the Unidroit Convention to our national law [Law 3348/2005 (Official Gazette 144/A/23-6-2005) in ratification of the Unidroit Convention (1995)]</li> <li>• Circulars as well as oral</li> </ul>	As the Unidroit Convention is only recently in force, similar provisions to those of the Unidroit are already included in national law (3028/02) concerning acquisitions by possessors and owners. Sanctions are provided for their non-adherence

		recommendations and consultation to museum curators	
<b>HUNGARY</b>	YES	<ul style="list-style-type: none"> <li>▪ The National Office of Cultural Heritage (KÖH) provides training for policemen, customs officers and museum security guard (since 2004: 10 training sessions)</li> <li>▪ information for external parties concerned (printed &amp; electronic – general &amp; occasional)</li> <li>▪ creating and increasing awareness (of the public and decision makers)</li> </ul>	
<b>ITALY</b>	YES National museums	Mostly in seminars dedicated to the instruction of scientific operators (art historians and archaeologists)	No direct experience, Italian National Museums buy very few artefacts and mostly of sure historical provenience
<b>LATVIA</b>	NO		
<b>LITHUANIA</b>	YES		Lithuania ratified Unidroit Convention in January 1997 by the Law of the Republic of Lithuania of Unidroit Convention Ratification. Currently is done a draft of changes in this Law – the change is associated with a legal entity to which are addressed claims for property rights to the restoration of cultural objects stolen or illegally exported cultural objects are according directly to the courts of the Republic of Lithuania (in previous version they were accorded through the Ministry of Culture)
<b>LUXEMBOURG</b>	NO		
<b>MALTA</b>	YES	Through internal guidelines, as well as in 4B	As in 4B
<b>NETHERLANDS</b>	NO	The 1995 UNIDROIT Convention is not in force in the Netherlands	
<b>PORTUGAL</b>	YES	Presently UNIDROIT is part of the body of laws that is considered museum heritage. Recently	As stated above, the Cultural Heritage Law (Law N° 107/2007, of September 8 <sup>th</sup> ) does not develop the concept of due diligence but it does establish in article 69 (5) that in the

		IMC hasn't organized any action regarding the diffusion among the museums professionals of the UNIDROIT Convention. However there is no specific evaluation of the knowledge of museum professionals of due diligence as it is defined in UNIDROIT	return action only the following will be discussed: a) If the object whose return is requested is considered a cultural good in accordance to the applicable rules; b) If, according to the applicable rules, the object was unlawfully removed from its State of origin; c) If its holder or possessor acquired it in good faith; d) The amount to be paid in compensation to the holder or possessor in good faith; d) <u>Other aspects of the conflict of interests which may be discussed in the return action according to the applicable rules of communitarian or international law.</u>
<b>ROMANIA</b>	YES	The Convention was ratified by law no.149/1997 thus the provisions of the Convention are already public knowledge. As mentioned in the answer to the point 4 a), the relevant legislation is made public through the Official Monitor and is also available online at <a href="http://www.cultura.ro">www.cultura.ro</a> , <a href="http://www.cultura-net.ro">www.cultura-net.ro</a> , <a href="http://www.cimec.ro">www.cimec.ro</a> as well as on other culture related web-sites	The principles expressed at article 4 of the Convention, have been integrated with the law on the protection of movable cultural heritage (Law no182/2000, Chapter IX and X) mainly in the process of transposing the Council Directive 93/7 EEC
<b>SPAIN</b>	NO	The acquisitions are directly made by the State through the Ministry of Culture, because State Museums have not a juridical situation. Then, the procedures of restitution and recovery are also made by the Ministry of Culture	The level of application of this Convention is minimum (0), because there were not enough countries adhered until two years ago. Then, the requests from other countries already do not exist
<b>UK</b>	Not ratified		

**6. Do museums seek attestation from Interpol's or other national and/or international databases (i.e. ICOM's Red List) for stolen objects before proceeding with acquiring an object?**

<b>YES= 11 ; NO= 9, No answer = 1</b>		
	<b>Response</b>	<b>Examples</b>
<b>AUSTRIA</b>	"NO"	

		The federal museums are legally independent. Austria has a lot of provincial, local, church-owned and private museums. There are no general provisions for all of them
<b>BELGIUM</b>	NO	The verification by museums of the provenance before acquiring and/or accepting cultural goods does not include a systematic check of these databases.
<b>CYPRUS</b>	NO	Nevertheless, the Cyprus Police often investigate INTERPOL records when cultural objects are imported into the country
<b>CZECH REPUBLIC</b>	NO	
<b>DENMARK</b>	YES	The Danish Ministry of Culture has informed the archives, libraries and museums about the access to Interpol.
<b>ESTONIA</b>	NO	Museums in Estonia purchase objects from abroad very seldom, mostly acquisitions are from local collections or items that were in possession of Baltic-German nobility and were moved to other countries during I and II WW.
<b>FINLAND</b>	YES	National authorities follow these international databases to acquire knowledge of the stolen objects worldwide. Databases provide essential information should a suspicious offer for sale occur (cf. answer to question 9). Interpol lists on stolen cultural property circulate among museum staff
<b>FRANCE</b>	YES	Avant d'acquérir un objet les musées demandent la consultation des bases nationales et Interpol. Par exemple si on sollicite l'OCBC un contrôle est effectué sur la base TREIMA et sur Interpol.
<b>GERMANY</b>	YES	7.Database "lost art" 8.Furthermore all objects bought in public museums of the federal state of Lower Saxony or objects being financed by the federal state are checked of their provenience (robbed art from the era of national socialism). If an object is tainted it is not bought!
<b>GREECE</b>	YES	All museums before acquiring an object are obliged to inform the competent central authority (Directorate of Museums, Exhibitions and Educational Programmes) who has databases of stolen objects and inputs of Interpol's search of stolen objects from other countries
<b>HUNGARY</b>	YES	
<b>ITALY</b>	NO	See above
<b>LATVIA</b>	NO	
<b>LITHUANIA</b>	YES	
<b>LUXEMBOURG</b>	----	
<b>MALTA</b>	NO	
<b>NETHERLANDS</b>	YES	The Art Loss Register and the ICOM Red List are known by cultural heritage institutions. In general it can be said that cultural institutions in the Netherlands are aware of the necessity of checking provenance/pedigree of cultural objects. The Ethical Commission, installed by a.o. the Dutch Museums Association in 1991 advises on questions regarding the Code of Ethics. Also the Ethical Commission of the ethnological museums in the Netherlands advises on ethical questions and acquisition of objects by ethnological museums in the Netherlands. Regarding WWII the Netherlands has developed a restitution policy and has erected several committees: Bureau Herkomst Gezocht (Origins Unknown, <a href="http://www.herkomstgezocht.nl/eng/index.html">http://www.herkomstgezocht.nl/eng/index.html</a> , Restitutie Commissie (Restitutions Committee, <a href="http://www.restitutiecommissie.nl/en">http://www.restitutiecommissie.nl/en</a> ). The Dutch Museums Association is involved in a research about the origin of works of art in museums acquired in the period 1933-1940,

		the results of the period 1940-1948 have already been published in 1999. A comparable research, <i>Erfgoed van de oorlog</i> , about the preservation of information in the period 1940-1945, mainly in Dutch archives, is financed by the Ministry of Health, Welfare and Sport (2007-2009).
<b>PORTUGAL</b>	YES	This is a general rule regarding the acquisition of cultural goods
<b>ROMANIA</b>	NO	
<b>SPAIN</b>	YES	Museums usually seek attestation when the Ministry of Culture asks them to do it, and evermore when they are the proposition of purchases. Usually, when the Ministry of Culture is going to buy and there is a doubt about the illegal provenance of items, then there are the requests to the Museums or Archives, to the Police, to the Customs, to the internal databases, etc. and also, if is possible, to the contact administrative from the last country where are the items
<b>UK</b>	YES	DCMS's guidance 'Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material' advises museums, libraries and archives to seek advice when purchasing or acquiring items and provides details of the Art Loss Register. 'Cultural Property Advice', the on-line advisory service referred to above, contains information about databases for stolen objects and links to them

#### 7. Do the museums, libraries or/and archives have access to national databases

YES= 9 ; NO= 11; NO/YES=1;		
	Response	
<b>AUSTRIA</b>	NO? Is this correct?	Access is possible to the national website "Stolen Works of Art": <a href="http://www.bmi.gv.at/fahndung">www.bmi.gv.at/fahndung</a> , and since 17 <sup>th</sup> August 2009 to the Interpol database "Stolen Works of Art"
<b>BELGIUM</b>	NO/YES	Museums have no direct access to the police ran national database on stolen art (ARTIST) but they can always have a specific work checked by the police officers responsible for the database. Not all museums however seem to know this.
<b>CYPRUS</b>	NO	
<b>CZECH REPUBLIC</b>	YES	
<b>DENMARK</b>	NO	
<b>ESTONIA</b>	NO	Only if the special permission is asked from the National Heritage Board
<b>FINLAND</b>	NO	One of the resolutions of the committee in 2007 (cf. answer to question 4b) was that a national database of stolen cultural objects should be created. The planning of this database is underway. Information given by such a database would be essential to national authorities, museums, libraries and archives as well as art dealers and auction houses
<b>FRANCE</b>	NO	
<b>GERMANY</b>	YES	They can ask the national authority
<b>GREECE</b>	YES	Only through the competent central authority (Directorate of Museums, Exhibitions and Educational Programmes).
<b>HUNGARY</b>	YES	The National Office of Cultural Heritage (KÖH) maintains a database of stolen cultural goods (since 2004). It contains more than 2.500 items stolen in the past 40 years. The database can be freely accessed through the web page of

		KÖH. (Unfortunately currently only in Hungarian.)
ITALY	YES	The competent general direction has access to the database of "Carabinieri Tutela Patrimonio Culturale"
LATVIA	NO	We do not have a national database for stolen objects.
LITHUANIA	YES	
LUXEMBOURG	NO	
MALTA	NO	
NETHERLANDS	NO	
PORTUGAL	YES	<p>The Portuguese Institute of Museums (the predecessor of the present IMC) took part in a project developed by the Museum and Historical Archives of the Judiciary Police (MAHPJ) which is a member of the Judiciary Police and Criminal Sciences Institute of Higher Studies (ISPJCC). MAHPJ, taking advantage of its natural position as a meeting ground and a common denominator to both the police and the museum standpoints, developed, in collaboration with the Geira Project (<a href="http://www.geira.pt/inpcc/index2.html">http://www.geira.pt/inpcc/index2.html</a>), a web page publicising works of art stolen from Portuguese public collections. The website relies on data obtained through the Inquiry on the Theft of Cultural Goods which was sent by MAHPJ – ISPJCC to public museums at national level.</p> <p>The main objectives of this project are aiding the identification of stolen works of art and their subsequent recovery; hinder the commercial circulation of stolen cultural goods; discourage this type of crime; play an active role in the prevention of this type of criminality; present statistical data that may boost the constant effort of improving the protection and safety of collections; forwarding to other organisations with web pages and that are related to this issue.</p>
ROMANIA	YES	
SPAIN	YES	But only to the Police website databases in internet, to confirm the technical characteristics of items before to propose the acquisition
UK	NO	There is no Government sponsored national database in the UK. However, museums, libraries and archives have access to commercial databases and to the Metropolitan Police Art and Antiques Unit's London Stolen Arts Database.

8. What documentation is requested before acquiring an object? (e.g. import/export certificate, previous owners or possessors, inheritance or bequest documents, provenance).

**YES=14; YES potentially=3; NEED FURTHER CLARIFICATION=1; NO=2; NO ANSWER=1**

	Response
AUSTRIA	"NO" No specific legal provisions
BELGIUM	"YES" Most of the acquired cultural objects are on the Belgian market. Ownership and provenance are the primarily requested fields
CYPRUS	"YES" Information on previous owners or possessors is requested (government archaeological museums only repatriate by purchase or donation).
CZECH REPUBLIC	"YES" All aforementioned documents
DENMARK	"YES potentially" The Museums act does not contain specific provisions on this matter, but

	Danish archives, libraries and museums are as a condition of remaining a public supported cultural institution supposed to act with sufficient attention and responsibility.
<b>ESTONIA</b>	“YES” Legend (provenance) written by owner or possessor, expertise and import certificate (if object is brought from abroad)
<b>FINLAND</b>	“YES” There are no provisions stating the requested documentation. Each proposed acquisition is individually examined and the necessary documentation requested to ensure the lawful origins/provenance of the object in question
<b>FRANCE</b>	“YES” Tout moyen de preuve, tous les documents pouvant concourir à préciser l'origine du bien et son parcours historique précis sont recherchés (selon les situations: titres de propriété antérieurs, appartenance à des collections identifiées, preuves de l'importation licite, passage en ventes publiques, présence dans des catalogues raisonnés ou d'expositions.).
<b>GERMANY</b>	“YES potentially” The museums act in order to ICOM rules
<b>GREECE</b>	“YES” Documentation of export from the country of origin/provenance, previous owner, donation, inheritance and bequest documentation, home and details of purchaser or dealer, etc.
<b>HUNGARY</b>	YES Vendor has to attest in a written form how he got into the ownership of the artwork. The following evidences can be (including but not limited): <ul style="list-style-type: none"> <li>• Purchase agreement;</li> <li>• Document testifying it comes from a bequest or if it was donated;</li> <li>• Publication;</li> <li>• Declaration made in front of a notary, etc.</li> </ul>
<b>ITALY</b>	“NEED FURTHER CLARIFICATION” A declared provenience and a written certificate of possession under responsibility of the owner
<b>LATVIA</b>	“NO” No documents are requested in museums. The owner with his or her signature confirms the legal origin of the object and belonging to the person. In the process of acquiring objects for museums and archives all the necessary information is included in the acceptance certificate
<b>LITHUANIA</b>	“YES” Written confirmation of previous owners or possessors that an object was acquired lawfully
<b>LUXEMBOURG</b>	----
<b>MALTA</b>	“YES” Signed declaration of ownership, deeds and wills and any available of past ownerships. In case of imported items these have to be vetted by the Superintendence for Cultural Heritage
<b>NETHERLANDS</b>	“POTENTIALLY YES” “NEEDS TO BE MORE SPECIFIC” In general, cultural heritage institutions will do their utmost to check the pedigree of future acquisitions along the above mentioned possibilities. In general, there is a high level of ethical behaviour
<b>PORTUGAL</b>	“YES” Depending on the specific situation of the object, all the above mentioned documentation may be requested.
<b>ROMANIA</b>	“NO” There are no legal provisions obliging museums to pursue a certain provenance clearance procedure before the acquisition of a cultural good. Each museum acts upon its self established set of procedures and due diligence principles. The museums might request certain provenance documents if they consider relevant or they can simply ask for an affidavit of ownership from the offerer of a cultural good in order to protect themselves

	from the penal sanction provisioned for detaining a cultural good that belongs to the cultural heritage of another country and has been illicitly removed from that country or from the prejudice subsequent to the acquisition of a stolen cultural good
<b>SPAIN</b>	<p>“YES”</p> <p>The documentation required before acquiring items is obligatory the accreditation of property, and in the case that items are coming from other country, also is required the export certificate. From the country of provenance, and the import licenses of Customs when items are coming from third countries to Spain. In the case of coming from EU, it is not obligatory the presentation of the import license, but it is convenient to give any document that reveals the correct movement into EU</p>
<b>UK</b>	<p>“YES”</p> <p>DCMS’s guidance ‘Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing cultural material’ states that museums, libraries and archives must be able to check provenance as soon as a potential acquisition or loan is identified and must be able to establish where an item came from and when and how it left its country of origin and any intermediate country. They should ask the vendor or donor to provide documentary evidence verifying the presence of the item in the UK prior to 1970 or confirming the legitimate export of the item to the UK after 1970. The guidance advises that an export licence from the country of origin or ‘publication in a reputable source prior to 1970, or at a date that proves its legitimate subsequent permanent export from the country of origin’ constitute acceptable advice. It also advises that the following types of documents might also provide acceptable evidence that the item was legally exported, removed or excavated, or that prior to 1970 it was always in the UK: ‘will/inventory, photographic evidence, family correspondence, auction catalogue, excavation field notes’. The guidance informs institutions that proper records must be kept of due diligence enquiries and this should include checks made into the items’ provenance.</p> <p>Museums occasionally act as repositories of last resort for antiquities originating within their local areas of responsibility and will on occasion approve the acquisition of antiquities without documented provenance where it can be reliably be inferred that they originated within their collecting area within the United Kingdom, and where such payment as may be made is not likely to encourage illicit excavation. This does not apply to items originating outside the UK</p>

**9. If there is suspicion that an object promoted for sale, bequest or donation to a museum, archive or library is a product of illicit trafficking, what procedure is followed?**

<b>YES= 15 ; NON EXPERIENCE 3 ; NO= 2 ; YES POTENTIALLY=1;</b>	
	<b>Response</b>
<b>AUSTRIA</b>	<p>“NO”</p> <p>The federal museums are legally independent. Austria has a lot of provincial, local, church-owned and private museums. There are no general provisions for all of them</p>
<b>BELGIUM</b>	<p>“YES”</p> <p>Deliberation between involved parties as museums, central administrations, specialised police forces, Cabinets of Ministers, etc</p>
<b>CYPRUS</b>	<p>“YES”</p> <p>The police is notified and takes over the case in collaboration with the competent authorities</p>
<b>CZECH REPUBLIC</b>	<p>“YES”</p> <p>Object is examined in databases, if a suspicion isn’t dissipated, acquisition isn’t realized</p>

<b>DENMARK</b>	<p>“YES POTENTIALLY”</p> <p>The Museums act does not contain specific provisions on this matter, but the Danish archives, libraries and relevant museums with collections of classical archaeological items have for more than 40 years refrained from acquiring items without a fully transparent provenience verified in accordance with European scientific standards.</p>
<b>ESTONIA</b>	<p>“YES”</p> <p>Technical expertise in the Conservation Department of the museum; information of such an object is to be sent to the National Heritage Board, Ministry of Culture and police for further examination</p>
<b>FINLAND</b>	<p>“NON EXPERIENCE”</p> <p>We have had no experience of tainted objects being offered to museums, archives or libraries. Should such an offer be made, however, every effort would be made to examine the matter carefully and to duly inform the relevant authorities both nationally and internationally</p>
<b>FRANCE</b>	<p>“YES”</p> <p>On renonce purement et simplement à acquérir cet objet et on peut signaler le problème aux services de police ou de douanes</p>
<b>GERMANY</b>	<p>“YES”</p> <p>The museum informs the federal authority (Ministry of Science and Culture of the German federal state of Lower Saxony) or the national authority (Representative of the German Government for Culture and Media). If the investigation comes to the conclusion that there is an “urgent suspicion” i.e. it is very likely that the object is tainted) the federal authority is allowed to “confiscate” the object (“Anhaltung”, § 8 Absatz 2 Kulturgüterrückgabegesetz) and informs the German national authority</p>
<b>GREECE</b>	<p>“YES”</p> <p>The museum has to inform the competent central authority and provide the requested documentation. If there is a suspicion, the acquisition is not permitted. Police authority is informed and a confiscation follows</p>
<b>HUNGARY</b>	<p>YES</p> <p>The Museum asks for further evidences in order to clarify the origin of the object, and the experts of the Museum try to check whether the object stems from illicit trafficking.</p>
<b>ITALY</b>	<p>“YES”</p> <p>There’s a control on the provenance of the object ( included the documentation ) and a collaboration with the ‘police’ called (Carabinieri Nucleo Tutela Patriimonio Culturale)</p>
<b>LATVIA</b>	<p>“NON EXPERIENCE”</p> <p>No such precedents</p>
<b>LITHUANIA</b>	<p>“NON EXPERIENCE”</p> <p>No examples in museums practice</p>
<b>LUXEMBOURG</b>	<p>“NO”</p> <p>No special procedure foreseen by law</p>
<b>MALTA</b>	<p>“YES”</p> <p>The Commissioner of Police is notified</p>
<b>NETHERLANDS</b>	<p>“YES”</p> <p>In general it can be said that the institution seeks the help of the Netherlands Police Agency/Police (KLPD) or the Cultural Heritage Inspectorate. When the outcome of the research is that the object has a tainted provenance, the necessary steps will be undertaken in order to return it to the rightful owner (in general the procedure is as follows: safe deposit, research, confiscation, legal procedure, restitution, compensation buyer in good faith).</p>
<b>PORTUGAL</b>	<p>“YES”</p> <p>Take up a specific investigation with the adequate means and resources and in collaboration with fellow organisations or with organisations with specific competences in this matter. Diplomatically notify the country of origin requesting information about the object.</p>

	Withholding the object by the competent authorities, namely the police and, in case there is legal justification and interest by the country of origin, to initiate a return process with the country of origin.
<b>ROMANIA</b>	“YES” The institution should announce the Police
<b>SPAIN</b>	“YES” In these cases, the Ministry of Culture calls to the Police Bodies in order to investigate the possible illicit trafficking. Moreover, the owner is required to present the title of property and accreditation of legal provenance
<b>UK</b>	“YES” Institutions are advised not to proceed with the acquisition if there is any suspicion whatsoever about the item. If they believe a criminal offence has taken place they should report it to the police

**10. In case it is proved that is a tainted object, what procedure is followed?**

<b>YES= 14 ; YES POTENTIALLY=1; NEED FURTHER CLARIFICATION= 2; NON EXPERIENCE 2 ; NO= 2 ;</b>	
	<b>Response</b>
<b>AUSTRIA</b>	“NO” The federal museums are legally independent. Austria has a lot of provincial, local, church-owned and private museums. There are no general provisions for all of them
<b>BELGIUM</b>	“NEED FURTHER CLARIFICATION” Decided case by case, according to law, proof and status of object.
<b>CYPRUS</b>	“YES” The case is taken to court.
<b>CZECH REPUBLIC</b>	“YES” It depends on the particular case – the measures ranges from checking information and informing the party involved to informing Police
<b>DENMARK</b>	“YES POTENTIALLY” The Museums act does not contain specific provisions on this matter, but the archives, libraries and museums are supposed to inform the police.
<b>ESTONIA</b>	“YES” If object is illegally brought to Estonia and the real owner is known, the object will be returned to the legal owner (through the Ministry of Culture to the national authority of other country)
<b>FINLAND</b>	“YES” Both the relevant national and international authorities would be duly informed. We have had no such cases or have no knowledge of such cases
<b>FRANCE</b>	“NEED FURTHER CLARIFICATION” <b>as the word ‘tainted’ is understood as a ‘fake’</b> En cas de doute sur l'authenticité d'un objet on demande l'examen par un laboratoire spécialisé dans le cas de la France il s'agit du centre de recherche et de restauration des musées de France (C2RMF). Si les résultats prouvent le caractère contrefait l'objet n'est pas acquis
<b>GERMANY</b>	“YES” The origin country (i.e. the country from which the object was exported illegally) is informed, the object can be “confiscated” (“Anhaltung”, § 8 Absatz 2 Kulturgüterrückgabegesetz) by the Ministry of Science and Culture of the federal state of Lower Saxony. The origin country has access to German administration or civil court to force the current possessor of the object to give it back to the origin state (§ 13 Kulturgüterrückgabegesetz). Moreover the police or local administration can confiscate the object if the legal conditions are fulfilled

<b>GREECE</b>	<p>“YES”</p> <p>Its importation is not permitted, customs authorities proceed with confiscation, and court procedures are followed. If we know the country where the tainted objects comes from, we proceed with its return to the country of origin</p>
<b>HUNGARY</b>	<p>“YES”</p> <p>The Museum presses charges at the police; tries to find the original rightful owner and if the rightful owner is found, the Museum offers the object for restitution.</p>
<b>ITALY</b>	<p>“YES”</p> <p>Never experimented directly but the artefact will be for sure kept in Museum till police authorities have solved the questions concerning property</p>
<b>LATVIA</b>	<p>“NON EXPERIENCE”</p> <p>No such precedents</p>
<b>LITHUANIA</b>	<p>“NON EXPERIENCE”</p> <p>No examples in museums practice</p>
<b>LUXEMBOURG</b>	<p>“NO” “NEED FURTHER CLARIFICATION”</p> <p>No special procedure foreseen by law Voir dans la pratique; le cas échéant contacter Madame Kirps des Archives Nationales et/ou Madame Kieffer de la Bibliothèque Nationale pour la pratique poursuivie dans ces deux instituts</p>
<b>MALTA</b>	<p>“YES”</p> <p>The case will be handled by the Commissioner of Police in strict liaison with the Superintendence of Cultural Heritage and competent experts</p>
<b>NETHERLANDS</b>	<p>“YES”</p> <p>In general it can be said that the institution seeks the help of the Netherlands Police Agency/Police (KLPD) or the Cultural Heritage Inspectorate. When the outcome of the research is that the object has a tainted provenance, the necessary steps will be undertaken in order to return it to the rightful owner (in general the procedure is as follows: safe deposit, research, confiscation, legal procedure, restitution, compensation buyer in good faith).</p>
<b>PORTUGAL</b>	<p>“YES”</p> <p>The object's existence is communicated to the competent authorities so that its origin may be investigated and a return procedure may be initiated in case there is legal foundation</p>
<b>ROMANIA</b>	<p>“YES”</p> <p>There are no specific procedures provisioned in the national legislation, to be employed by the museums in the case a tainted object is offered for sale. Most probably, the museums would not buy a cultural good that is proved to be tainted. The museums should inform the police on such offers being made. The Police is the competent authority to investigate the case and, based on the results of the investigation, to propose the penal pursuit. Flowingly, the interested state is notified in compliance with the provisions of the applicable legislation (Directive 93/7/EEC, UNESCO 1970 Convention, UNIDROIT Convention or the Romanian Law no.302/2004 regarding international legal assistance on penal pursuit, modified and completed).</p>
<b>SPAIN</b>	<p>“YES”</p> <p>In this case, the Ministry of Culture gives all documentation and information about national and international procedures to the Police Bodies, in order to convert the matter in a judicial state</p>
<b>UK</b>	<p>“YES”</p> <p>Institutions are advised not to proceed with the acquisition if there is any suspicion whatsoever about the item. If they believe a criminal offence has taken place they should report it to the police</p>

**11. In the above case (No. 10), does the museum, library or archive inform the national authority responsible for the implementation of Directive 93/7/EEC on the**

**Return of Cultural property that has been illicitly removed from the territory of a member state?**

<b>YES= 14 ; NO ANSWER = 1; NON EXPERIENCE = 2; NO= 4</b>	
	<b>Response</b>
<b>AUSTRIA</b>	NON EXPERIENCE
<b>BELGIUM</b>	NON EXPERIENCE No cases yet
<b>CYPRUS</b>	YES
<b>CZECH REPUBLIC</b>	YES
<b>DENMARK</b>	YES ... but no instance has so far been detected
<b>ESTONIA</b>	YES
<b>FINLAND</b>	YES If the object in question has been illicitly removed (or if there is reason to believe so) from the territory of a member state or a country that has ratified or accepted the Unidroit and/or Unesco Convention(s). This procedure is somewhat hindered by the fact that there is no national import legislation concerning cultural goods. (cf. also answer to question 4b).
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES
<b>GREECE</b>	YES Non experience so far. But if there would be such a case, then the museum is obliged by the provisions of the law (3028/02) to inform the national authority responsible for the implementation of Directive 93/7/EEC
<b>HUNGARY</b>	YES But since the adoption of the Directive 93/7/EEC the National office of Cultural Heritage (national authority responsible for the implementation) has not received such kind of information form museums, libraries, archives.
<b>ITALY</b>	YES
<b>LATVIA</b>	----
<b>LITHUANIA</b>	YES No examples in museums practice
<b>LUXEMBOURG</b>	NO à voir comment vous agissez dans la pratique, à priori il devrait être procédé ainsi pour assurer une bonne application de la loi du 9 janvier 1998 portant transposition de la Directive 93/7/CEE du 15 mars 1993 relative à la restitution des biens culturels ayant quitté illicitement le territoire d'un Etat membre de l'UE; le cas échéant contacter Madame Kirps des Archives Nationales et/ou Madame Kieffer de la Bibliothèque Nationale pour la pratique poursuivie dans ces deux instituts
<b>MALTA</b>	YES
<b>NETHERLANDS</b>	YES In the above mentioned cases, the institutions have to inform the KLPD or the Cultural Heritage Inspectorate. But cultural heritage institutions are not always aware of the cultural legislation and possibilities of return procedures. Therefore, constant awareness raising in this respect is part of the Communication strategy of the Ministry of Education, Culture and Science
<b>PORTUGAL</b>	YES
<b>ROMANIA</b>	NO There is more than one authority responsible with the implementation of the Directive 93/7/EEC on the Return of Cultural property that has been illicitly removed from the territory of a member state: the High Court of Cassation and Justice, the Ministry of Culture and National Heritage and the Court of Appeal Bucharest. A museum should inform the Police allowing that the proper investigation procedure to be carried on, and the penal pursuit to be initiated. Based on

	that, the High Court of Cassation and Justice is entitled to notify the interested member state
<b>SPAIN</b>	YES The Ministry of Culture is the national authority responsible for the implementation of Directive 93/7/EEC, and with other public services, it is the responsible for the acquisition. Then museums have to inform exhaustively about the suspicion and other reports about the tender and seller/purveyor.
<b>UK</b>	NO This is not obligatory, though we would expect to be so informed

**12. In case the tainted object has illicitly been removed from a third country, what procedure is followed?**

YES= 15 ; NO ANSWER = 2; NON EXPERIENCE = 2; NO= 2	
	Response
<b>AUSTRIA</b>	----
<b>BELGIUM</b>	NON EXPERIENCE No case known in Belgium. Probably the case would be referred to the competent court
<b>CYPRUS</b>	NO There is no formalised procedure
<b>CZECH REPUBLIC</b>	“YES” The third country is informed
<b>DENMARK</b>	“YES” The Museums act does not contain specific provisions on this matter, but the Danish archives, libraries and relevant museums are supposed to inform the police.
<b>ESTONIA</b>	YES Object will be given to the Ministry of Culture and in cooperation with the Ministry of Foreign Affairs is will be sent back to the country from where it has been illegally removed
<b>FINLAND</b>	YES See above. The same procedure would also apply to objects from third countries that have ratified or accepted the Unesco and Unidroit Conventions
<b>FRANCE</b>	----
<b>GERMANY</b>	YES The origin country (i.e. the country from which the object was exported illegally) is informed, the object can be “confiscated” (“Anhaltung”, § 8 Absatz 2 Kulturgüterrückgabegesetz) by the Ministry of Science and Culture of the federal state of Lower Saxony. The origin country has access to German administration or civil court to force the current possessor of the object to give it back to the origin state (§ 13 Kulturgüterrückgabegesetz).
<b>GREECE</b>	YES If it has been imported illegally and the offer for sale is within the territory the object is confiscated, legal procedures are followed and the Embassy of the relevant country is informed
<b>HUNGARY</b>	YES If the competent authority confiscates /seizes the object, it informs the KÖH. Then the object will be in the custody of the museum appointed by the KÖH until the rightful owner is found. (The Museum of Fine Arts, for example, runs a specific website for these kinds of objects.)
<b>ITALY</b>	YES Never experimented directly but the object will be kept safe a Museum till police authorities and investigations have solved the questions concerning property (according to art. 6 of the “Amsterdam Treaty “ the illicitly removed goods are considered national property”)

<b>LATVIA</b>	NON EXPERIENCE No such precedents
<b>LITHUANIA</b>	YES By provisions of 1970 UNESCO and Unidroit Conventions ( no examples in museums practice)
<b>LUXEMBOURG</b>	NO No special legal provisions Voir dans la pratique
<b>MALTA</b>	YES As in Q9, the Commissioner of Police is notified who will liaise with Interpol and other international agencies
<b>NETHERLANDS</b>	“YES” In general it can be said that the institution seeks the help of the Netherlands Police Agency/Police (KLPD) or the Cultural Heritage Inspectorate. When the outcome of the research is that the object has a tainted provenance, the necessary steps will be undertaken in order to return it to the rightful owner (in general the procedure is as follows: safe deposit, research, confiscation, legal procedure, restitution, compensation buyer in good faith).
<b>PORTUGAL</b>	YES The same procedure is applied with reference to the different laws that fundament each specific return procedure.
<b>ROMANIA</b>	YES The procedure followed depends on the applicable international instrument. If the third country is a Party to a relevant convention such as UNIDROIT Convention and/or UNESCO 1970 Convention the procedures followed are those provisioned by these conventions. If the third country is not a Party to the above mentioned conventions, judicial cooperation can take place based on international courtesy, when such a requested is advanced through diplomatic channels and reciprocity is guaranteed by the competent authority of the third country, as provisioned in the Law no.302/2004 regarding international legal assistance on penal pursuit, modified and completed
<b>SPAIN</b>	YES The same procedure that has been described above, but in observance of the UNESCO Convention it needed the solicitation of the cultural authorities from the country of origin and the confirmation that the item is from the national heritage
<b>UK</b>	YES When Customs Officers become aware that objects they have seized are tainted, they try to send the objects back to their national authorities, sometimes through the Foreign and Commonwealth Office. The Metropolitan Police’s Arts and Antiquities Unit (AAU) returns tainted objects of which they have become aware to the relevant Embassies in London. (I have asked HMRC and the Metropolitan Art and Antiques Squad to check the above wording – HL)

**13. Are there any penal or administrative sanctions in case a museum, library or archive acquires a tainted object?**

**YES= 11 ; NON EXPERIENCE = 1; NO= 9 ;**

	<b>Response</b>	<b>Sanctions</b>
<b>AUSTRIA</b>	NO	No specific legal provisions
<b>BELGIUM</b>	YES	Within the Flemish and French Community a museum could loose its recognition (and subsidies) in the case of a serious mala fide trespassing
<b>CYPRUS</b>	YES	If a Cypriot antiquity was illegally acquired, the Antiquities Law provides for imprisonment (not exceeding 36 months) and/or a fine. Court orders may be issued in the cases of objects that belong to a member state, according to Law 183(I)/2002, based on the 93/7 EU Directive.
<b>CZECH REPUBLIC</b>	YES	An administrative sanction

<b>DENMARK</b>	YES	<b>YES</b> , as it is prohibited for Danish museums to acquire tainted objects and Danish libraries and archives are supposed to follow similar ethic guidelines in their acquisition policy, the administrative sanction would be withdrawal of public financial support in case. Museums owned and subsidised by the State: The Museums Act contains the following provision: <b>§ 40 - (1)</b> Any person who i) violates ..... Section 33 or ii) ..... shall incur a fine. (2) ..... (3) Companies, etc. (legal entities) may be held criminally liable under Part 5 of the Penal Code.
<b>ESTONIA</b>	NO	
<b>FINLAND</b>	NO	Under certain circumstances Criminal Code may be enforced
<b>FRANCE</b>	NO	
<b>GERMANY</b>	YES	If the acting person knows certainly about the need of an import certification (§ 14 Absatz 1 Kulturgüterrückgabegesetz) and knows it is an tainted object = cultural good of national importance of another country a penal sanction up to 3 years is possible (§ 20 Absatz 1 Nr. 3 Kulturgüterrückgabegesetz).
<b>GREECE</b>	YES	Museums are forbidden to obtain cultural goods for which there are indications that they originate from theft, illegal excavation or other unlawful act or that these items were acquired or exported in breach of the legislation of their state of origin; they are also obliged to keep the competent service informed of any such offer. The violation of these provisions shall entail the possibility of having the act of recognition of the museum by the State revoked. The act of receiving and disposing of products of crime shall be punished by temporary term not exceeding ten years (art. 55, 3028/2002 and art. 394 of Penal Code) (information added)
<b>HUNGARY</b>	NO	
<b>ITALY</b>	NO	The member states of the European Community can claim the restitution of the goods illicitly removed with the help of the Judiciary Authority (art. 77 Code of Cultural Heritage)
<b>LATVIA</b>	YES	There are no administrative sanctions in case a museum or library acquires a tainted object, besides, they don't have such precedents. In case of archives, the Criminal law provides penalties for unauthorized activities with archive documents
<b>LITHUANIA</b>	NE	No examples in museums practice
<b>LUXEMBOURG</b>	YES provided that the illegal origin of the object is known by the museum, library or archive	Article 505 of the Criminal Code (délit de "recel"): prison sentence between 15 days and 5 years and penalty/fine between 251 and 5.000 EUR
<b>MALTA</b>	NO	
<b>NETHERLANDS</b>	NO	Procedures are laid down in Directive (EC) 93/7 and the Implementation Act of the 1970 UNESCO Convention (2009). National authorities (Police, Customs and Cultural

		Heritage Inspectorate) will act accordingly
<b>PORTUGAL</b>	YES	There are no specific provisions in either the Cultural Heritage Law (Law N° 107/2007, of September 8 <sup>th</sup> ) or in the Portuguese Museum Framework Law (Law N.º 47/2007, of August 19 <sup>th</sup> ) According to article 100 of the Cultural Heritage Law (Law N° 107/2007, of September 8 <sup>th</sup> ) the dispositions contained in the Penal Code, with the specifications of the same law, are applicable to crimes perpetuated against cultural goods.
<b>ROMANIA</b>	YES	If the cultural good belongs the another country's cultural heritage and has been illicitly exported, the possession, trade, the exhibit or any other operation related to the circulation of that cultural good is considered an infraction and is punished with 3-10 years of prison (art.89 of Law no.182/2000). The cultural good shall be confiscated as stipulated in the Penal Code under the Art.118
<b>SPAIN</b>	NO	The last responsible of acquisitions from State Museums, Archives and Libraries are the Public Administrations and they have the obligation to acquire objects with legal provenance. Nevertheless, if we take into consideration the case of institutions or curators with knowledge of tainted objects (illegal export from other countries, archaeology spoliation, theft, etc.), before the acquisition, then we can apply the general legislation. After that, the relevant provisions are: a) Law 16/1985 of Spanish Historic Heritage, Title IX, articles 75 (illegal export can be considered crime of contraband or administrative sanction, it depends on the value of items), 76 (about the sanctions), 77 (procedure of audience), 78 (procedure of sanctions), and 79 (prescription of crime); b) Law 30/1992 of Procedure and Regime of Public Administrations, Title IX; c) The Organic Law 10/1995 of Penal Code; d) Law 12/1995 of repression of contraband.
<b>UK</b>	YES	There are no penal sanctions specific to museums, libraries and archives, but see annex A for legislation relating to illicit trade generally. The Museums, Libraries and Archives Council's Accreditation Scheme sets nationally agreed standards for museums and galleries in the UK and it is a requirement that Museums acquire items honestly and responsibility. If museums do not comply, accreditation can be withdrawn. This would affect general eligibility for grant-aid, awards etc. offered by a range of organisations. Whether or not museums are accredited is taken into account by major funding bodies such as the National Heritage Memorial Fund.

**14. Do museums, libraries or archives proceed with a search for the provenance of an object before borrowing it on loan for a temporary exhibition?**

**YES=9 ; NEED FURTHER CLARIFICATION= 2; NO=9 ; YES BUT IN NEED FOR FURTHER CLARIFICATION=1**

	Response	Type of search
<b>AUSTRIA</b>	NEED FURTHER CLARIFICATION	Usually, curators are informed about the provenance and history of an object and know the collectors.
<b>BELGIUM</b>	NO	Specified on beforehand between involved parties in case of a temporary exhibition.

<b>CYPRUS</b>	NO	Although Cyprus has ratified the 1970 UNESCO Convention and the UNIDROIT (1995), there is no formalised mechanism by which to ensure that a provenance search is conducted.
<b>CZECH REPUBLIC</b>	YES	Checking the databases of stolen cultural goods and classified cultural objects
<b>DENMARK</b>	YES	Before any acquisition museums, libraries and archives are supposed to secure a fully transparent provenience verified in accordance with European scientific standards.
<b>ESTONIA</b>	NO	
<b>FINLAND</b>	YES	In most cases loans come from other museums, libraries or archives. There is no reason to question the professional ethics of these institutions. It is our belief that no museum, library or archive would intentionally hold a tainted object in its collections, nor would any museum, library or archive borrow such an object on loan for any kind of exhibition
<b>FRANCE</b>	NO	
<b>GERMANY</b>	YES	
<b>GREECE</b>	YES	As all the State museums and recognized museums who accept an object, the whole loan procedure is followed through central authority (Directorate of Museums, Exhibitions and Educational Programmes) that proceeds with the search of provenance
<b>HUNGARY</b>	YES	When purchasing, but during the whole process of any sort of acquisition in general, Hungarian museums have to exercise due diligence. First of all the museum has to verify if according to its statutes it has the right to acquire that particular sort of work of art. In case of an eventual acquisition a so-called Acquisition Committee need to be congregated, in order to verify the artwork's financial and artistic value. In the Purchase Agreement the buyer museum requires that the vendor attest in a written form his own acquisition of property, also, museums require an attestation from the Art Loss Register or Interpol declaring that the work of art is not in their database. Other aspects like the observation of the physical state of the work of art, the purchase price are also important factors of exercising due diligence. In certain cases museums ask for the professional opinion of an expert. After the signature of the contract by the buyer and the vendor, the museum need to register the work of art in the inventory, according to the provisions of the NKÖM ministerial decree No. 20/2002. (X. 4.).
<b>ITALY</b>	YES	The documentation regarding the provenance of object
<b>LATVIA</b>	NO	
<b>LITHUANIA</b>	NO	
<b>LUXEMBOURG</b>	NEED FURTHER CLARIFICATION	v. pratique
<b>MALTA</b>	NO	
<b>NETHERLANDS</b>	YES	In general it can be said that museums, libraries and archives will do their utmost to check the provenance of objects on loan for a temporary exhibition, along the lines of the ICOM Code of Ethics or the IFLA Code of Ethics. In cases of doubt, they will ask for guarantees or for further

		documentation from the borrowing institutions
<b>PORTUGAL</b>	YES BUT IN NEED FOR FURTHER CLARIFICATION	No specific explanation provided
<b>ROMANIA</b>	NO error, the answer is for lending and not for borrowing	The responsibility of a licit provenance lies with the lender. In the Romanian legislation, public institutions are forbidden to lend objects that are subjects of litigation
<b>SPAIN</b>	NO	
<b>UK</b>	YES	Institutions applying for Government Indemnity are required to confirm that due diligence checks have been carried out to ensure only ethically acceptable items are borrowed. They would do this in accordance with the guidance set out in the DCMS publication 'Combating Illicit Trade: Due diligence guidelines for museums, libraries and archives on collecting and borrowing'

**15. Do museums, libraries or archives request information about the participating institutions and the objects involved before sending on loan a cultural object for a temporary exhibition?**

<b>YES=12 ; NEED FURTHER CLARIFICATION= 2; NO=7 ;</b>		
	<b>Response</b>	<b>Type of search</b>
<b>AUSTRIA</b>	NEED FURTHER CLARIFICATION	The federal museums are legally independent. Austria has a lot of provincial, local, church-owned and private museums. There are no general provisions for all of them
<b>BELGIUM</b>	NO	
<b>CYPRUS</b>	NO	
<b>CZECH REPUBLIC</b>	YES	The Internet, request for further documentation. Notice: This concern only lesser well-known institutions we have not collaborated yet
<b>DENMARK</b>	YES	Museums, libraries and archives often use standard forms securing that proper procedures regarding loan of objects are followed. The forms are usually drawn up as a result of inter institutional and international collaboration.
<b>ESTONIA</b>	NO	
<b>FINLAND</b>	YES	It is common practice that each loan of cultural objects is carefully considered before the decision to send them on loan is made. The institution in charge of arranging the exhibition is expected to attach all relevant information (e.g. the participating institutions) to their request
<b>FRANCE</b>	YES , NEED FURTHER CLARIFICATION	Il est procédé à la vérification des conditions de sécurité et de conservation du bien culturel. Une mission sécurité (un ingénieur technique, un commandant de police et un colonel des sapeurs-pompiers) a été créée au sein des services patrimoniaux qui peut effectuer des missions de contrôle sur place
<b>GERMANY</b>	YES, NEED FURTHER CLARIFICATION	
<b>GREECE</b>	YES	a) Investigate whether the participating institutions are reputable organisations with no previous record of involvement in cases of illicit trafficking of antiquities or bequests of private collections of dubious provenance; b) Require to see the complete catalogue of artefacts offered for temporary loan by the other lending institutions

<b>HUNGARY</b>	YES	
<b>ITALY</b>	YES	The loan is usually granted only to well known institutions abroad. In case the exhibition is not organized by museums, information are mostly requested, even about the other objects on show
<b>LATVIA</b>	NO	
<b>LITHUANIA</b>	NO	
<b>LUXEMBOURG</b>	v. pratique	
<b>MALTA</b>	NO	
<b>NETHERLANDS</b>	YES	In general it can be said that museums, libraries and archives will do their utmost to check the provenance of objects on loan for a temporary exhibition, along the lines of the ICOM Code of Ethics or the IFLA Code of Ethics. In cases of doubt, they will ask for guarantees or for further documentation from the borrowing institutions
<b>PORTUGAL</b>	YES	Museums usually enquire directly the exhibition organizers in order to obtain further information and knowledge about the mentioned items
<b>ROMANIA</b>	NO	There is no legal obligation for the museums to pursue this kind of investigation
<b>SPAIN</b>	YES	They request information about the other lenders, the publication of the catalogue and the authors involved
<b>UK</b>	YES, NEED FURTHER CLARIFICATION	Institutions will normally assess objects to be loaned out to confirm suitability for travel, packing and display and are encouraged to complete the attached facilities report to see whether institutions to which items are loaned meet display, security and environmental conditions. Most institutions have a Committee which considers requests against set criteria related to that organisation's vision and objectives

**16. If it is found that dubious collections or objects are participating in temporary exhibitions in other member states, what are the further steps that museums, libraries, archives follow?**

<b>YES= 9 ; NON EXPERIENCE= 2; NEEDS FURTHER CLARIFICATION= 3; NO ANSWER=2; NO= 5</b>	
	<b>Response</b>
<b>AUSTRIA</b>	----
<b>BELGIUM</b>	NON EXPERIENCE No cases known. Very rarely that these type of tainted objects would turn up in international exhibitions
<b>CYPRUS</b>	NO There is no formalised process by which to monitor exhibition material in other member states
<b>CZECH REPUBLIC</b>	YES We inform the organiser
<b>DENMARK</b>	YES The Museums act does not contain provisions on this matter, but in accordance with general guidelines for ethic leadership of public supported cultural institutions, Danish museums, libraries or archives are supposed to withdraw from further engagements in the exhibition in question
<b>ESTONIA</b>	NO It is responsibility of institution and the country who organises temporary exhibition to control provenance of objects on loan and institutions from whom to borrow object for exhibition. Lender is not responsible for it
<b>FINLAND</b>	YES

	Notification of such an exhibition would be given to relevant authorities
<b>FRANCE</b>	----
<b>GERMANY</b>	NEEDS FURTHER CLARIFICATION error, the answer is for lending but Germany answers for borrowing In public museums (of the federal state of Lower Saxony) there is made investigation, found cases are made public, legal rights are checked and if an object is tainted it is returned by the museum
<b>GREECE</b>	YES The Hellenic Ministry of Culture and Tourism does not issue the necessary permits for the borrowing to foreign institution and for the dispatch/export of the cultural objects asked for loan by the borrowing institution. Greece withdraws from the event
<b>HUNGARY</b>	YES The lending and the borrowing institutions are informed about the suspect.
<b>ITALY</b>	NO No special protocol is provided, but the judicial authorities must be alerted
<b>LATVIA</b>	NON EXPERIENCE No such precedents
<b>LITHUANIA</b>	NEEDS FURTHER CLARIFICATION By provisions of 1970 UNESCO Convention and Unidroit Convention
<b>LUXEMBOURG</b>	NEED FURTHER CLARIFICATION v. pratique (à ce sujet il peut être intéressant de noter l'existence d'un Office Central de lutte contre le trafic de Biens Culturels (O.C.B.C.) en France, lequel outre ses missions de répression, de prévention, de formation, de coopération et de documentation internationale, exerce les attributions de point de contact pour la France concernant la circulation illicite des trésors nationaux entre les Etats membres de la communauté européenne)
<b>MALTA</b>	YES Our Loans Contract ensures that no situation such as this will hardly ever arise. In such an extreme case, we would reserve the right to withdraw from the event
<b>NETHERLANDS</b>	NO In general: it is up to the member state in question to undertake the necessary steps. They have to inform the relevant authorities in the member states
<b>PORTUGAL</b>	YES They usually ask for further information and alert about the possibility that the objects may be of dubious origin. In cases where the organizing museum is unable to supply all the necessary information, the museum will consult art theft databases when appropriate and/or consult with scholars and fellow curators. As a rule, when the situation isn't fully clarified, they will decline the invitation to participate in the exhibition and will not proceed with the loan of the requested objects
<b>ROMANIA</b>	YES There is no legal obligation for the museums to withdraw their participation if they found that dubious collections or objects are participating in temporary exhibitions in other member states. The National Commission of Museums and Collections might deny the participation of Romanian cultural goods (classified and/or in public property) to certain exhibitions on ethical grounds
<b>SPAIN</b>	YES In the case that any lender or author are involved in illegal trafficking of cultural goods, or there are dubious collections participating, the Spanish lender institutions have to inform to the Ministry of Culture, and the exportation for this exhibition can be negated
<b>UK</b>	NO There are no standard procedures

**B. For Collectors-Possessors (Private or legal entities)**

17. Are there provisions in a national law concerning collectors and/or possessors?

YES=12 ; NEEDS FURTHER CLARIFICATION=1 ; NO= 7; NO ANSWER=1		
	Response	Relevant provisions
AUSTRIA	NO	
BELGIUM	NO	
CYPRUS	YES	The Antiquities Law provides that an individual or an institution can possess antiquities only by permission of the Director of the Department of Antiquities
CZECH REPUBLIC	NO	
DENMARK	NO	
ESTONIA	NO	There is no special law on cultural or heritage objects, for regulations concerning private art collections only general legislation on property can be used
FINLAND	YES	They are all obligated to obey the national legislation bringing into force both Unesco and Unidroit Conventions
FRANCE	NO	
GERMANY	YES, NEEDS FURTHER CLARIFICATION	
GREECE	YES	<p>a) According to law 3028/02 (art.23) "The person who legally declares a movable ancient object belonging by ownership to the state is possible that it may be granted a permit regarding its possession, so long as certain preconditions are fulfilled".</p> <p>b) The movable ancient monuments , in the same way as the immovable ancient ones dating back up to the year 1453, belong by ownership to the State and are things that do not fall to any form of transaction (they are <i>res extra commercium</i>) and are not subject to time limitations (Law 3028/2002, art. 21, paragraph 1). By derogation of the rule aforesaid (which was also prescribed in the legislation previously in force), ownership with regard to ancient objects belonging to the same period, which have been imported legally from abroad, shall be kept under certain preconditions, most notably, so long as they have not been exported from Greece within the last fifty years prior to their importation, and so long as they do not constitute products of theft or illegal excavation (Law 3028/2002, art 33, paragraph 3).</p> <p>c) Ancient movable monuments, which are found during excavations or other archaeological research, regardless of their age, belong to the State in terms of ownership and possession (Law 3028/2002, art 21, paragraph 3).</p> <p>d) The possessors, as well as the owners of ancient objects, have certain obligations pertaining to the custody (safekeeping) and maintenance (Law 3028/2002, art.27), as well as to facilitation</p>

		<p>concerning their study and exhibition (Law 3028/2002, art. 29).</p> <p>e) The transfer of the possession of ancient objects, as well as the ownership of ancient or modern monuments, falls under the control of the Ministry of Culture (Law 3028/2002, art. 28).</p> <p>f) The lawful holder or owner of movable antiquities as well as the owner of recent movable monuments which constitute a unity from an artistic, historical or scientific point of view may be recognized as a collector, upon his application, by a decision of the Minister of Culture, following an opinion of the Council (art. 31, paragraph 1). A natural person, whose profession is related or was related to the protection of monuments or is an antique dealer or merchant of recent monuments or an employee or partner of natural or legal persons with a similar business, cannot be recognized as a collector of antiquities (art. 31, paragraph 2). Collectors shall have the same rights and duties with the holders or owners of monuments subject to the following provisions (art. 31, paragraph 3). Collectors shall keep a register with a full description and photographs of the objects of the collection and shall submit a copy of this register to the Service and at least every six (6) months thereafter a list with the new additions to the collection (art. 31, paragraph 4). Collectors may enrich their collections with monuments imported from abroad or acquired in Greece in accordance with the provisions of the present law (art. 31, paragraph 5). Collectors shall be prohibited from acquiring cultural objects which are suspected of coming from theft, illegal excavation or other illegal act, or which have been acquired or exported in violation of the legislation of the country of origin, and shall inform the Service of any such offer without undue delay (art. 31, paragraph 6). Collectors shall be responsible for the safeguarding of the unity of a collection (art. 31, paragraph 10). Collectors may transfer the objects of their collection in their entirety either to the State or to museums referred to in article 45 ("For Museums") or to persons who are recognized collectors, after notifying their intention to the Service and the personal data of the transferee as well as the price, in case of sale (art. 31, paragraph 11). If the collector ceases to satisfy one or more of the requirements on the basis of which this identity was recognized or there has been a violation of the provisions of the aforementioned article, the decision on recognition may be revoked temporarily or permanently. The decision shall be automatically revoked if the collector has been condemned finally for one of the offences referred to in paragraph 1, in which case the antiquities in his possession shall be taken by the State. If revocation is effected for another reason, possession may be retained (art. 31, paragraph 14).</p>
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		As said before, any potential new acquisition by a private or legal entity is declared to the competent authority of the Ministry of Culture, with all the attached documents proving the legality of the object for its potential acquisition. The Ministry then issues accordingly a permission of possession after the recommendation of the Council or issues ownership for objects dated after 1453.
<b>HUNGARY</b>	YES	There are different levels of protection of movable cultural heritage. Cultural goods older than 50 years of age are allowed to be exported from the country only with an export license (Certificate) issued by the National Office of Cultural Heritage (KÖH). Outstanding objects can be classified by resolution of KÖH. Classified cultural goods may only be exported on temporary basis and are registered and inspected regularly by KÖH.
<b>ITALY</b>	YES	The code on cultural heritage (dlgs n. 42/2004)
<b>LATVIA</b>	YES	The Law on Protection of Cultural Monuments (11.03.1992)
<b>LITHUANIA</b>	NEEDS FURTHER CLARIFICATION the legislation provided by the ms speaks of export permits and nowhere is mentioned about collectors/possessors	1) Law on Protection of Movable Cultural Property (3 July 2008, No X-1682); 2) Resolution of the Government Amending the Resolution on the Approval of Procedure for Exporting of Movable Cultural Property and Antiques from the Republic of Lithuania and the List of Movable Cultural Property and Antiques the Export of Which Requires a Licence (Permit) Issued by the Department of Cultural Heritage under the Ministry of Culture (10 June 2009, No 618). There are currently two forms of Licences (Permits) used for the export of movable cultural property and antiques from the Republic of Lithuania (see above in this questionnaire (answer in point 4B)
<b>LUXEMBOURG</b>	NO	
<b>MALTA</b>	----	
<b>NETHERLANDS</b>	YES	See article 87a of Chapter 3 of the Civil Code (under question 4)
<b>PORTUGAL</b>	YES	According to the Cultural Heritage Law (Law N° 107/2007, of September 8 <sup>th</sup> ) a private holder of cultural goods, such as a collector, may request their inventory: Article 62 (1) – Anyone may request, with due fundament, the inventory of a cultural good, collection or group of their property, and must gather the necessary elements; Article 62 (3) – The inclusion of any cultural good, collection or group in the general inventory confers its owner the right to an identity title, as well as other rights legally recognised, especially when the inventory operations are funded by him. On the other hand, according to article 3 (c), it is incumbent on IMC to propose the inventory and the listing of movable cultural goods of national and public interest; to promote the systematic and up to date inventory of cultural goods as well as assure the registry of both the patrimonial inventory and the patrimonial listing of movable cultural goods that are legally protected.

		According to article 5 (l) of Law 97/2007, of March 29th, IMC must promote the articulation between the inventory of public and private cultural goods and the general inventory of cultural heritage
<b>ROMANIA</b>	YES	The Law no 182/2000 on the protection of national movable cultural heritage, republished: contains provisions related to the responsibilities incumbent to possessors of classified cultural goods. The Law no 311/2003 regarding museums and public collections, republished, defines the private collections, without provisioning any other responsibility for the owners of such collections
<b>SPAIN</b>	YES	Law 16/1985. Art. 26 points out how including the collections within the protection high levels. For movable items there are two: BIC (Interesting cultural goods) and General Inventory of Movable Goods. Also it points out the basic obligations of art market people. Article 32 is about declaration of importations in Spain of movable items, with the aim of facilitating the knowledge of collections coming to Spain. With measures for improve the import declarations as future exportation or susceptible of being including in the high levels of protection. Royal Decree 111/1986. Article 26 is about the obligation to communicate the transmissions of items not included in the levels of protection, depending of a list of values. Art. 40-44 are about transmissions of cultural goods. Art. 45-57 are about exports and imports
<b>UK</b>	YES	See annex setting out legislation relevant to illicit trade

**18. Are private collections controlled by a national authority or other body?**

If yes, has the national authority or body the competence of controlling the acquisitions by collectors and what are the relevant provisions?

<b>YES=10 ; IRRELEVANT=1 ; NO= 9; NO ANSWER=1</b>		
	<b>Response</b>	<b>Examples</b>
<b>AUSTRIA</b>	IRRELEVANT	In case of an export of a protected cultural object, an export license, issued by the Federal Office for the Protection of Monuments (BDA), is needed.
<b>BELGIUM</b>	NO	
<b>CYPRUS</b>	YES	As far as Cypriot antiquities are concerned, every collector is obliged, as per the Antiquities Law, to provide the Director of Antiquities with a list of the antiquities he has in his possession. These antiquities are then inspected and registered. Existing (legal) collections were acquired prior to 1996 when a temporary amendment to the Antiquities Law allowed possessors to declare their collections
<b>CZECH REPUBLIC</b>	NO	
<b>DENMARK</b>	NO	
<b>ESTONIA</b>	NO	
<b>FINLAND</b>	NO	
<b>FRANCE</b>	YES (NEEDS	

	FURTHER CLARIFICATION)	
<b>GERMANY</b>	YES	<ul style="list-style-type: none"> <li>• police (if the object has been taken in possession illegally)</li> <li>• German customs (Zoll) when taking the object into Germany or exporting it</li> <li>• Representative of the German Government for Culture and Media</li> <li>• - Ministry of Science and Culture of the Federal State of Lower Saxony</li> </ul>
<b>GREECE</b>	YES	By the Directorate of Museums, Exhibitions and Educational Programmes and the Ephorate of Antique Shops and Private Archaeological Collections as well as the peripheral archaeological services and the Director of Modern Cultural Heritage of the Ministry of Culture and Tourism, which have the authority to control the acquisitions of the collectors. The Ephorate of Antique Shops and Private Archaeological Collections inspects and registers the collections and possessions. For the provisions, see previous answer
<b>HUNGARY</b>	YES	Only in case of classified cultural goods. Most items on the art market are not classified and acquisitions can not be controlled.
<b>ITALY</b>	YES	If the objects are "qualified" according to art.13-14-15 dlgs 42/2004 Private collections are controlled by the organs of the Ministry for cultural Heritage, that may request the support of the Carabinieri, or if it was required to be export
<b>LATVIA</b>	YES	According to the law, in the framework of national inventory of monuments the State Inspection for Heritage Protection studies, surveys, evaluates and prepares inventory documents of monuments and includes them in the register of nationally protected cultural monuments. Though, the Inspection does not have rights to supervise acquisitions of collectors
<b>LITHUANIA</b>	NO	
<b>LUXEMBOURG</b>	NO	
<b>MALTA</b>	----	
<b>NETHERLANDS</b>	YES	In the Cultural Heritage Preservation Act (1984) rules are laid down for the owners of the works of art which are regarded as indispensable and irreplaceable for the national cultural heritage. The legally protected works of art, mostly in private collections or in the collections of ecclesiastical institutions, are regularly checked on their presence by the Cultural Heritage Inspectorate. Tasks and competences of the supervisors on the Cultural Heritage Preservation Act are laid down in art. 15-18. See also under question 2
<b>PORTUGAL</b>	YES	According to the mentioned above, only if they include listed or classified goods There are no specific legal dispositions on the prior control of the acquisitions of movable cultural goods by private collectors. The cultural heritage administration can only do it retrospectively as the inventory of a cultural good is subject to standard procedures such as the documentation of the object, namely on its origin. It has however no involvement in the acquisitions made by private collectors unless the goods are from another country. As is the case with expedition and export, both admission

		<p>(entrance from another member state) and import, temporary or definitive, of all goods that are considered cultural goods, in accordance with the definition of law n.º 107/2001, of September 8<sup>th</sup>, must be communicated to the portuguese administration of the cultural heritage 30 days prior to their entrance into the country, otherwise they are considered unlawful.</p> <p>The request of registry of admission or import of cultural goods must be addressed to IMC in writing, indicating whether it is a temporary or definitive act and stating the following:</p> <p>Final destination (in case of temporary admission or import, the duration of the stay of the cultural good should be mentioned);</p> <p>Designation (the precise nature of the good should be stated, for instance: sculpture or painting);</p> <p>Title (when applicable);</p> <p>Authorship;</p> <p>Date;</p> <p>Matter / Technique;</p> <p>Dimensions.</p> <p>The request should be accompanied by a colour photograph of the cultural good. It should also expressly identify the owner of the cultural good stating name, address and telephone number. A document attesting the goods property should be presented as well as the expedition or export licence issued by the country of origin.</p> <p>If the cultural good, when entering the country, should arouse the suspicion of the customs authority, they may ask for the collaboration of the cultural heritage administration to help clear up the specific situation of the cultural good.</p>
<b>ROMANIA</b>	NO	
<b>SPAIN</b>	YES	Private collectors are controlled through the legal mechanisms commented above. i.e. in the case of transmissions of cultural goods included in the levels of protection, they have to communicate it to the competent authorities. When they want to export they have to request for the permission
<b>UK</b>	NO	

**19. What documentation is requested before acquiring an object? (e.g. import/export certificate, previous owners or possessors, inheritance or bequest documents, provenance).**

**YES= 8 ; YES POTENTIALLY = 1; NEEDS FURTHER CLARIFICATION= 1; N/A=1 ; NO=7; NO ANSWER=3**

	<b>Response</b>
<b>AUSTRIA</b>	NO No specific legal provisions
<b>BELGIUM</b>	NO No deontological code for collectors. Serious collectors will check provenance before acquiring items for their collections
<b>CYPRUS</b>	YES As far as Cypriot antiquities are concerned, any antiquity found that has not been registered prior to 1996, belongs to the Cyprus Government and should

	be handed to the competent authority
<b>CZECH REPUBLIC</b>	NEEDS FURTHER CLARIFICATION It depends on particular collector
<b>DENMARK</b>	NO Denmark has not introduced formal procedures for control or other form of regulation of import of cultural objects
<b>ESTONIA</b>	YES Import/export certificate, expertise
<b>FINLAND</b>	NO There are no specific provisions controlling acquisitions by collectors.
<b>FRANCE</b>	----
<b>GERMANY</b>	YES If importing an object an import certificate is needed
<b>GREECE</b>	YES In case of imported object, export permits from the country of origin is requested, previous owner/possessor, provenance, receipt of purchase and if it is a Greek antiquity a proof that it has not been exported from Greece within the last 50 years prior to the importation and they are not products of theft or illegal excavation. If the object comes from another ms, there is an obligation to declare it to the competent archaeological service and to provide dispatch certificate, previous owner or possessor, inheritance of bequest documents, provenance and/or receipt of purchase. If it is a Greek antiquity from within Greece, the possessor has to declare where he founded, to provide inheritance and bequest documents and prove its legality otherwise the object is taken up by the state.
<b>HUNGARY</b>	NO No special documentation is needed. (Such transactions are regulated by the general rules of the Civil Code.)
<b>ITALY</b>	YES The above mentioned documentation is always requested
<b>LATVIA</b>	NO Legislation does not define necessity of request of any documents before acquiring an object
<b>LITHUANIA</b>	N/A
<b>LUXEMBOURG</b>	YES Import certificate in case of an importation from a third state (outside the UE)
<b>MALTA</b>	----
<b>NETHERLANDS</b>	YES The Implementation Act 1970 UNESCO Convention (12 June 2009, Bulletin of Acts, Orders and Decrees 2009, nr 255) has the obligation for the general public, art trade and auction houses to act in a reasonable way when considering the acquisition of cultural goods and to make every reasonable effort regarding due diligence in checking the provenance of cultural objects. Chapter 3, section 6, art.87A of the Implementation of the 1970 UNESCO Convention reads as follows: <b>1.</b> To determine whether a possessor has exercised due diligence in acquiring cultural property as referred to in section 1 (d) of the 1970 UNESCO Convention on the Illicit Import, Export and Transfer of Ownership of Cultural Property (Implementation) Act, account is taken of all circumstances of the acquisition, in particular: a) the capacity of the parties; b) the price paid; c) whether the possessor consulted every reasonably accessible register of stolen cultural property and any other relevant information and documentation which he could reasonably have obtained and whether the possessor consulted accessible agencies; d) whether the possessor took all steps that a reasonable person would have taken in the circumstances. <b>2.</b> A dealer as referred to in article 437 of the Criminal Code will not be deemed

	<p>to have exercised due diligence in accordance with article 86b, paragraph 2 in acquiring cultural property if he has failed to:</p> <p>a) ascertain the identity of the seller;</p> <p>b) require the seller to provide a written declaration that he is competent to dispose of the property;</p> <p>c) record in the register to be kept by him the provenance of the cultural property, the name and address of the seller, the purchase price paid to the seller and a description of the cultural property;</p> <p>d) consult the registers of stolen cultural property which it would be appropriate to consult in the circumstances, given the nature of the cultural property.</p> <p>3. An auctioneer who does not fulfil the requirements of due diligence referred to in paragraphs 1 and 2 when accepting cultural property for public auction or who returns this cultural property to the person presenting it for public auction without having fulfilled these requirements of due diligence acts unlawfully in relation to the persons who are able to institute proceedings for return as referred to in article 86b.</p>
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	<p>NO</p> <p>There is no specific procedure provisioned in the national legislation, with regard to specific documents being requested before acquiring an object</p>
<b>SPAIN</b>	<p>YES</p> <p>We do not know exactly, but the serious collectors and private institutions possibly request all of them: import/export certificate, invoice of previous owners or possessors, inheritance or bequest documents, provenance, etc. In any case, the biggest transmissions are made in public notaries, and they use to confirm the legality of the items provenance. In the case they are included in a State level of protection, the notary demands the confirmation that public authorities do not want to exercise the prior acquisition</p>
<b>UK</b>	<p>YES POTENTIALLY</p> <p>Purchasers are advised to ensure they see enough information relating to the object's history to give them as complete a picture as possible. Cultural Property Advice' the on-line advisory service set up with funding from DCMS, provides the following list and suggests that potential purchasers use it to decide whether they have enough information to buy or acquire an object with confidence, although it states that it is unlikely all of these will be available for all objects.</p> <ul style="list-style-type: none"> <li>• A copy of an export licence from the country of origin</li> <li>• Publication in a reputable source at a date that proves its legitimate permanent export from the country of origin</li> <li>• An inventory specifically mentioning the item</li> <li>• Photographic evidence</li> <li>• Family correspondence specifically mentioning the item</li> <li>• An auction catalogue</li> <li>• Excavation field notes</li> <li>• Receipt of purchase</li> </ul>

**20. In case it is proved that it is a tainted object, what procedure is followed?**

<b>YES= 12 ; NEEDS FURTHER CLARIFICATION= 2; NO/YES=1; N/A=1 ; NO=1; NO ANSWER=4</b>	
	<b>Response</b>
<b>AUSTRIA</b>	<p>YES</p> <p>If the object is offered in an auction, BDA contacts the managing director of the auction house, in some cases (e.g. theft) police too.</p>
<b>BELGIUM</b>	<p>YES</p> <p>Depends on the collector confronted (and the person offering) the tainted good. They should inform the police in such a case.</p>

<b>CYPRUS</b>	YES The case is taken over by the Police and charges are pressed
<b>CZECH REPUBLIC</b>	NEEDS FURTHER CLARIFICATION It depends on particular collector
<b>DENMARK</b>	YES A procedure in accordance with Directive 93/7/EEC and the 1970-convention of UNESCO involving information of the police
<b>ESTONIA</b>	NO/YES If object has been illegally brought to Estonia, it will be confiscated by custom and police will proceed with it according to the law. If some other country will claim that the object has been moved from the country against their law, then authorities of that country will deal with the problem, not Estonian police or any other authority
<b>FINLAND</b>	NO This is mainly the responsibility of the individual collector/possessor since it is not possible for the national authority to control private collections
<b>FRANCE</b>	----
<b>GERMANY</b>	YES The origin country (i.e. the country from which the object was exported illegally) is informed, the object can be "confiscated" ("Anhaltung", § 8 Absatz 2 Kulturgüterrückgabegesetz) by the Ministry of Science and Culture of the federal state of Lower Saxony. The origin country has access to German administration or civil court to force the current possessor of the object to give it back to the origin state (§ 13 Kulturgüterrückgabegesetz). Moreover the police or local administration can confiscate the object if the legal conditions are fulfilled
<b>GREECE</b>	YES In case of importation this is not permitted by the Customs Authorities, it is confiscated and judicial procedure is followed. In case it comes from a ms, the police is informed and judicial procedure is followed. If the object is a product of an illegal export from a third country or from a ms, it is returned to it after the final court decision. According to art.59 of the national law (3028/2002) any person who transfers the ownership or the possession of a monument or acquires ownership or possession of a monument without the required by law permit, authorization or notification, shall be punished by imprisonment not exceeding two (2) years. An imprisonment of at least two (2) years shall be imposed, if it concerns an ancient monument, which has not been lawfully declared. These penalties shall be imposed, provided that the act is not punished more severely pursuant to another provision. If the object is a monument of especially high value and the offender knew that it was a product of a criminal offence, the act of receiving and disposing of crime (art.394, paragraph 1 of Penal Code) shall be punished by temporary term not exceeding ten years.
<b>HUNGARY</b>	YES In recent years the public access of the database of stolen cultural goods resulted in several reports of discovered items. In such cases either police were able to act and return the stolen objects to the rightful owners or the original owners began negotiations with the person holding the object.
<b>ITALY</b>	YES Follow the procedures laid down by the Code of Criminal Procedure
<b>LATVIA</b>	NEEDS FURTHER CLARIFICATION In such cases actions are according the Criminal Law (17.06.1998) and other legislative acts
<b>LITHUANIA</b>	N/A
<b>LUXEMBOURG</b>	----
<b>MALTA</b>	----
<b>NETHERLANDS</b>	YES In general it can be said that the institution seeks the help of the Netherlands

	Police Agency/Police (KLPD) or the Cultural Heritage Inspectorate. When the outcome of the research is that the object has a tainted provenance, the necessary steps will be undertaken in order to return it to the rightful owner (in general the procedure is as follows: safe deposit, research, confiscation, legal procedure, restitution, compensation buyer in good faith)
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	YES There is no legal procedure stipulated. Collectors or other private possessors shall inform the Police
<b>SPAIN</b>	YES When there is the knowledge of transmission of a tainted object, the notary has the obligation to give advice to the Police Bodies for putting it in judicial intervention and usually the Judge orders the depot in a State museum
<b>UK</b>	YES This would be a matter for the UK police/courts

21. When it is proved it is a tainted object, does the authority or body controlling the acquisitions by collectors inform the national authority responsible for the implementation of Directive 93/7/EEC on the Return of Cultural property that has been illicitly removed from the territory of a member state?

**YES= 6 ; NO/YES = 1 ; NO= 8; NEEDS FURTHER CLARIFICATION=1; NOT RELEVANT=1; NO ANSWER=3 ; NON EXPERIENCE=1**

	Response
<b>AUSTRIA</b>	YES
<b>BELGIUM</b>	NON EXPERIENCE No case known in Belgium linked to Directive 93/7 EEC.
<b>CYPRUS</b>	YES
<b>CZECH REPUBLIC</b>	NO, Acquisition made by a private collector is private matter of him. So that, it depends on particular collector
<b>DENMARK</b>	YES ... in cases where the object are covered by the directive
<b>ESTONIA</b>	YES
<b>FINLAND</b>	NO There is no authority/body controlling the acquisitions by collectors in Finland
<b>FRANCE</b>	NO
<b>GERMANY</b>	YES
<b>GREECE</b>	YES The central authority responsible for the implementation of Directive 93 is also responsible for issuing possession permits after the recommendation of the Central Archaeological Council, so it is automatically informed for such cases
<b>HUNGARY</b>	NO There is no authority or body controlling the acquisitions by collectors or dealers.
<b>ITALY</b>	----
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	NEEDS FURTHER CLARIFICATION as there is no reference to national authority for Dir.93 Cultural valuables which are an important part of national culture, but are not kept in the museums, archives or libraries are entered in a database of the Register of Cultural valuables, which is managed by the Department of Cultural Heritage under the Ministry of Culture ( <a href="http://kvr.kpd.lt/heritage">http://kvr.kpd.lt/heritage</a> ). Subdivision for Conveying Cultural Values to Foreign Countries of the Control Division of the Department of Cultural Heritage actively cooperates with the staff of Customs Department under the Ministry of Finance, State Border

	<p>Guard Service and Police Department under the Ministry of the Interior regarding the questions of thefts and unlawful export of cultural valuables. Because of the cooperation with the Police Department there has been found a number of wanted cultural valuables, prevented their export from Lithuania, and subsequently these cultural valuables were returned to legitimate owners. The said Subdivision immediately informs the Police Department, customs post, State Border Guard Service and its posts about the cultural valuables intended for unlawful export. This Subdivision also is responsible for the evaluation of cultural valuables intended for unlawful import to Lithuania and for submitting of the conclusions to the divisions of Customs Criminal Service.</p> <p>The International Liaison Office of Lithuanian Criminal Police Bureau (Interpol Vilnius –Sirene – Europol) constantly communicates by e-mail and post with the said Subdivision about wanted cultural valuables announced by Interpol. This information is also provided on a website of the Police Department (<a href="http://www.policija.lt/lt/kuriniai">www.policija.lt/lt/kuriniai</a>). This database is available not only for the staff of Customs, State Border Guard Service or Department of Cultural Heritage, but also for individuals whose activity is associated with the circulation of cultural valuables, i.e. art collectors, owners of antique bookshops, holders of auctions. These individuals has an access to that database and when needed may check whether certain cultural valuable intended for purchase is not wanted. That in turn may increase the probability to find stolen cultural valuables.</p>
<b>LUXEMBOURG</b>	NO
<b>MALTA</b>	----
<b>NETHERLANDS</b>	Not relevant
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	<p>NO</p> <p>No, since there's no national authority or body having the competence of controlling the acquisitions made by collectors</p>
<b>SPAIN</b>	<p>NO</p> <p>The public notaries do not use to know the existence of the Directive 93/7/EEC or other normative about the return of property illegally removed from other country. In addition, they do not know that the implementation of this is made by the Ministry of Culture. But, in any case, when they detect an abnormal situation they have to give solution from what it said before</p>
<b>UK</b>	<p>NO/YES</p> <p>The police/courts would not necessarily pass this information on to the national authority responsible for the implementation of Directive 93/7/EEC, although they would do so if there had been a specific request for assistance under Directive 93/7/EEC which had been passed on to them</p>

**22. In case the tainted object has illicitly been removed from a third country, what procedure is followed?**

<b>YES= 14 ; NEEDS FURTHER CLARIFICATION=1; NO= 1 ; NO ANSWER=4 ; NON EXPERIENCE =1</b>	
	<b>Response</b>
<b>AUSTRIA</b>	<p>NO</p> <p>If the object is offered in an auction, BDA contacts the managing director of the auction house, in some cases (e.g. theft) police too.</p>
<b>BELGIUM</b>	<p>NON EXPERIENCE</p> <p>No case known in Belgium</p>
<b>CYPRUS</b>	<p>YES</p> <p>In this case, the third country is notified as per the 1970 UNESCO Convention and the UNIDROIT</p>
<b>CZECH REPUBLIC</b>	<p>YES</p> <p>The third country is informed</p>
<b>DENMARK</b>	YES

	A procedure in accordance with the 1970-convention of UNESCO involving information of the police
<b>ESTONIA</b>	YES Object will be confiscated to the custom until the decision about the case will be made in the country from where the object was removed
<b>FINLAND</b>	NEEDS FURTHER CLARIFICATION The same procedure would also apply to objects from third countries that have ratified or accepted the Unesco and Unidroit Conventions There is no authority/body controlling the acquisitions by collectors in Finland
<b>FRANCE</b>	----
<b>GERMANY</b>	YES The origin country (i.e. the country from which the object was exported illegally) is informed, the object can be "confiscated" ("Anhaltung", § 8 Absatz 2 Kulturgüterrückgabegesetz) by the Ministry of Science and Culture of the federal state of Lower Saxony. The origin country has access to German administration or civil court to force the current possessor of the object to give it back to the origin state (§ 13 Kulturgüterrückgabegesetz).
<b>GREECE</b>	YES If it has been imported illegally, the object is confiscated by the Customs, judicial procedures are followed and the Embassy of the relevant country is informed so that the country of origin sends the documentation that it belongs to its cultural heritage in order to officially claim the object. In this case, International conventions are applied. If it is possessed illegally, the police proceeds with confiscation and judicial procedures are followed.
<b>HUNGARY</b>	YES In case the National Office of Cultural Heritage (KÖH) becomes aware of such items it reports them to the Embassy of the concerned country.
<b>ITALY</b>	YES According to international laws judicial authorities must be alerted
<b>LATVIA</b>	YES Such cases are regulated by the Law on Protection of Cultural Monuments and The Cabinet regulation No 526 "Procedures for Return of Unlawfully Removed Art and Antique Objects"
<b>LITHUANIA</b>	YES See above Q21
<b>LUXEMBOURG</b>	----
<b>MALTA</b>	----
<b>NETHERLANDS</b>	YES In general it can be said that the institution seeks the help of the Netherlands Police Agency/Police (KLPD) or the Cultural Heritage Inspectorate. When the outcome of the research is that the object has a tainted provenance, the necessary steps will be undertaken in order to return it to the rightful owner (in general the procedure is as follows: safe deposit, research, confiscation, legal procedure, restitution, compensation buyer in good faith)
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	YES The procedure followed depends on the applicable international instrument. If the third country is a Party to a relevant convention such as UNIDROIT Convention and/or UNESCO 1970 Convention the procedures followed are those provisioned by these conventions. If the third country is not a Party to the above mentioned conventions, judicial cooperation can take place based on international courtesy, when such a requested is advanced through diplomatic channels and reciprocity is guaranteed by the competent authority of the third country, as provisioned in the Law no.302/2004 regarding international legal assistance on penal pursuit, modified and completed
<b>SPAIN</b>	YES It is the same reply than the points 9, 10, and 11. The Ministry of Culture gives all documentation and information about national and international procedures

	to the Police Bodies, in order to convert the matter in a judicial state. In observance of the UNESCO Convention it needs the solicitation of the cultural authorities from the country of origin and the confirmation that the item is from the national heritage
<b>UK</b>	YES In response to a specific request, when Customs Officers become aware that objects they have seized are tainted, they attempt to facilitate their return to their national authorities, through dialogue with the Foreign and Commonwealth Office and the appropriate embassy

**23. Are there any penal or administrative sanctions in case a collector acquires a tainted object?**

<b>YES= 9 ; NO/YES=1; NO= 8; NO ANSWER=3</b>		
	<b>Response</b>	<b>Sanctions</b>
<b>AUSTRIA</b>	NO There are no specific legal provisions. General provisions of the Penal Code are applicable	
<b>BELGIUM</b>	NO	Unless the purchase could be qualified as 'healing'
<b>CYPRUS</b>	YES	If a Cypriot antiquity was illegally acquired, the Antiquities Law provides for imprisonment (not exceeding 36 months) and/or a fine. Court orders may be issued in the cases of objects that belong to a member state, according to Law 183(I)/2002, based on the 93/7 EU Directive.
<b>CZECH REPUBLIC</b>	NO	
<b>DENMARK</b>	YES	...in cases in conflict with Part 5 of the Penal Code, for instance in cases of handling stolen goods.  Penalties covering fines for milder cases to prison for the most serious cases.
<b>ESTONIA</b>	NO	
<b>FINLAND</b>	NO	Under certain circumstances Criminal Code may be enforced
<b>FRANCE</b>	YES	
<b>GERMANY</b>	YES	<ul style="list-style-type: none"> <li>• If he knows about the criminal origin of the object, a penal sanction up to 5 years is possible (§ 257 or § 259 Strafgesetzbuch).</li> <li>• penal sanction up to 3 years (§ 20 Absatz 1 Nr. 3 Kulturgüterrückgabegesetz) if importing the object to Germany without the import certificate (§ 14 Absatz 1 Kulturgüterrückgabegesetz)</li> </ul>
<b>GREECE</b>	YES	According to national law (3028/02), if the collector ceases to satisfy one or more of the requirements on the basis of which this identity was recognized or there has been a violation of the provisions of this article, the decision on recognition may be revoked temporarily or permanently. The decision shall be automatically revoked if the collector has been condemned finally for one of the offences referred to in paragraph 1, in which case the antiquities in his possession shall be taken by the State. If revocation is effected for another reason, possession may be retained (art. 31, paragraph 14). Any person who transfers the ownership or the possession of a protected cultural property or acquires ownership or possession of a protected cultural property without the required by law permit, authorization or notification, is punished by imprisonment not exceeding two (2) years. An

		imprisonment of at least two (2) years is imposed, if it concerns an ancient movable monument, which has not been lawfully declared. These penalties shall be imposed, provided that the act is not punished more severely pursuant to another provision (art.59). Any person who imports in Greece cultural objects which have been illegally removed from museums or other similar institutions or religious or public monuments situated within the territory of other States parties to the UNESCO Convention of 1970 and which are documented as appertaining to the inventory of those institutions shall be punished by imprisonment for not less than one year, if the act is not punished more severely by another provision
<b>HUNGARY</b>	NO	Nothing beyond the general rules laid down in the Penal Code concerning acquiring any stolen object
<b>ITALY</b>	YES	that provided by the existing criminal law, depending on the offence consumed
<b>LATVIA</b>	NO	
<b>LITHUANIA</b>	----	
<b>LUXEMBOURG</b>	YES	Article 505 of the Criminal Code (délit de "recel"): prison sentence between 15 days and 5 years and penalty/fine between 251 and 5.000 EUR
<b>MALTA</b>	----	
<b>NETHERLANDS</b>	NO	Procedures are laid down in Directive (EC) 93/7 and the Implementation Act of the 1970 UNESCO Convention (2009). National authorities (Police, Customs and Cultural Heritage Inspectorate) will act accordingly
<b>PORTUGAL</b>	----	
<b>ROMANIA</b>	YES	Penal sanctions, as provisioned at Art. 89 of Law no.182/2000. The cultural good shall be confiscated (special confiscation as provisioned at Art.118 from the Penal Code)
<b>SPAIN</b>	NO/YES	We use to believe in the good faith of private buyer until the judge could not demonstrate the illegal trafficking. When the illegal trafficking is demonstrated a sanction would be the restitution to the legal owner without indemnification
<b>UK</b>	YES	A collector could be liable to imprisonment and/or a fine, depending on the circumstances. See annex setting out details of legislation relevant to illicit trade

**24. Do the collectors have access to national databases for stolen objects?**

<b>YES= 10; NO/YES=1; NO=9 ; NO ANSWER=1</b>	
	<b>Response</b>
<b>AUSTRIA</b>	NO However, access is possible to the national website "Stolen Works of Art": <a href="http://www.bmi.gv.at/fahndung">www.bmi.gv.at/fahndung</a> , and since 17 <sup>th</sup> August 2009 to the Interpol database "Stolen Works of Art"
<b>BELGIUM</b>	YES On demand and after a screening of the request by the police
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	YES
<b>DENMARK</b>	NO
<b>ESTONIA</b>	NO
<b>FINLAND</b>	NO One of the resolutions of the committee in 2007 (cf. answer to question 4b)

	was that a national database of stolen cultural objects should be created. The planning of this database is underway. Information given by such a database would be essential to national authorities, museums, libraries and archives as well as art dealers and auction houses
<b>FRANCE</b>	YES Indirect
<b>GERMANY</b>	YES They can ask the national authority, i.e. the representative of the German government for culture and media
<b>GREECE</b>	NO For any acquisition they are obliged to notify the competent authority of the Ministry of Culture and Tourism which proceeds with investigation of the legality of the object and is responsible for the relevant data bases
<b>HUNGARY</b>	YES
<b>ITALY</b>	YES
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	NO
<b>MALTA</b>	----
<b>NETHERLANDS</b>	NO
<b>PORTUGAL</b>	YES They may have access to all the bases of public access
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES to databases included in the websites with minimum and technical information (i.e., INTERPOL, Spanish Guardia Civil, etc.), but not to internal databases from Police or Ministry of Culture
<b>UK</b>	NO/YES There is no Government sponsored national database in the UK. However, museums, libraries and archives have access to commercial databases and to the Metropolitan Police Art and Antiques Unit's London Stolen Arts Database

**C. For Art Dealers and Auction Houses\***

**25. Are there any provisions in a national law concerning the art dealers and auction houses?**

<b>YES= 17; NO= 3; NO ANSWER=1</b>		
	<b>Response</b>	<b>Relevant provisions</b>
<b>AUSTRIA</b>	YES	§ 154 /2 GewO 1994 (Austrian Industrial Code) contains provisions concerning art and antiquities dealers. They are for example obliged to inform security authorities about the origin of an object.  Entrepreneurs under the Austrian Commercial Act are also obliged to maintain an inventory and to keep books (§§ 190 UGB; Austrian Commercial Act)
<b>BELGIUM</b>	NO	
<b>CYPRUS</b>	YES	Law 182 (I) 2002 for the export of cultural objects and Law 183 (I) 2002 for the return of cultural objects, regulate the export and the return procedures for art dealers and auction houses

\* Both are mentioned both, because in some countries like Greece they are two different entities

<b>CZECH REPUBLIC</b>	YES	The Act No. 71/1994 Sb., on sale and export of objects of cultural value – all objects quoted in the amendment must have certificate during their export. The sacral objects and the objects of archaeology field must have this certificate already on their sale
<b>DENMARK</b>	YES	Dealers in the market of second-hand goods as well as auctioneers are under an obligation to keep a protocol of the identity of selling clients of each object on sale or auction.
<b>ESTONIA</b>	NO	
<b>FINLAND</b>	YES	They are obligated to obey the national legislation bringing into force both Unesco and Unidroit Conventions. However, the committee (cf. answer to question 4b) in 2007 discovered major deficiencies in the legislation controlling the Finnish antiques market. It was recommended that a working group should be assigned to draft new regulations
<b>FRANCE</b>	YES	
<b>GERMANY</b>	YES	Especially § 29 Absatz 1 Nr. 5 Gewerbeordnung and § 18 Kulturgüterrückgabegesetz: Dealers and auction houses have to maintain a register (look at question 28)
<b>GREECE</b>	YES	<p>A special permit is required by the Ministry for Culture for engaging in the profession of antiquities dealer or dealer in modern monuments, following an opinion rendered by the Central Archaeological Council. These permits are issued sparingly to persons who have the guarantees, who have no criminal record, and when they have demonstrated experience and knowledge of the subject.</p> <p>So in more detail, to prevent illegal trade and thus illegal acquisitions antique dealers and merchants of modern cultural property in compliance both with the national legislation (law 3028/02 art. 32, par. 4) and the UNESCO Convention (article 10, par. a) are obliged to:</p> <ul style="list-style-type: none"> <li>• keep record books authorized by the competent authority of the Ministry of Culture, where they register the cultural property that enters into their premises. Registration should include description, photograph, provenance, personal data of the previous possessor or owner of the property and the transferee, the details of the permit of possession, the price and the date of transfer.</li> <li>• The new buyer is obliged to declare the object to the competent authority of the Ministry so a possession permit can be granted by the Minister to him.</li> <li>• For every transfer antique dealers and merchants of modern cultural property issue the requisite legal papers, where it is written that the aforementioned property cannot be exported from the country without a permit.</li> <li>• Antique dealers thus are prohibited from acquiring or trading cultural objects which are suspected for coming from theft, illegal excavation or other illegal activity or of cultural objects, which have been acquired or exported in violation of the legislation of their country of origin (art. 32, par. 6).</li> <li>• A special Service of the Ministry of Culture is responsible for supervising any transaction of the antique dealers.</li> </ul> <p>The act of receiving and disposing of products of crime (article 394, paragraph 1 of Penal Code) shall be punished by a temporary term not exceeding 10 years if the monument is of especially high value and the offender knew that it was a product of a criminal offence. The transfer of ownership or of the possession of a protected cultural property or acquisition</p>

		<p>of ownership or possession of a protected cultural property without the required by law permit, authorization or notification shall be punished by imprisonment not exceeding 2 years (art. 59, 3028/2002).</p> <p>Two Regulatory Decisions have been issued in compliance with articles of Law 3028/02 that concern a) the suitability and operation of antique shops and b) the conduct of Auctions respectively. These are:</p> <ul style="list-style-type: none"> <li>Ministerial Decree of the Minister of Culture, no YPPO/DOEPY/TOPYNS/34668/11.4.2008 (Official Gazette 669/B/16-4-08; issued in compliance with art. 32, §11 of Law 3028/02) for the "Suitability and operation of antique shops or establishments engaged in the trade of modern movable monuments".</li> </ul> <p>Ministerial Decree no YPPO/DOEPY/TOPYNS/34674/11.4.2008 for the "Conduct of Auctions of movable monuments" (Official Gazette 669/B/16-4-08; issued in compliance with art. 32, §11 of Law 3028/02). According to the Ministerial Decree "the agencies charged with the conduct of auctions are prohibited to acquire and put up for auctions movable monuments for which there are indications that they derive from theft, illegal excavation or other unlawful action, such as the legalization of revenues stemming from an illegal activity or have been obtained or exported in contravention of the legislation of their state of origin, and they ought to notify without undue delay the Archaeological Service with respect to any such offer" (art. 4 §1). Also "the agencies commissioned with the conduct of auctions shall be subject to the control of the Service and shall be bound to facilitate the inspection of their establishments and storage places wherein the movable monuments put up for auction are kept" (art. 4 §3). "The agencies for conduct of auctions shall be obliged to keep a special Book of Auctions, duly certified by the Archaeological Service, in which the movable monuments shall be registered immediately after their importation into the establishment. The registration shall comprise the description, photographing and provenance of the monument, the particulars of the assignor of the agency conducting the auction and the highest bidder, documentation for the acquisition or importation, any likely license for possession of the ancient object, as well as the price and date of the purchase" (art. 4 §4). "After the conduct of the auction of the ancient movable monument, the agencies assigned with the conduct of the auctions shall give notice to the highest bidder that s/he should submit, without undue delay, to the territorially competent Ephorate of Antiquities of the Ministry of Culture" (art. 4 §6) and application requesting the permit of possession according to the provisions of the law 3028/02</p>
<b>HUNGARY</b>	YES	<p>There is no special legislation on art market in Hungary. Beyond general rules relating to market companies and transactions only special cases are regulated by cultural laws especially when they acquire, hold, sell or put on auction classified objects. In such cases they have to report them to the National Office of Cultural Heritage (KÖH) and register the buyer.</p>
<b>ITALY</b>	YES	<p>In particular, by Royal Decree 18.6.1931, n. 773 and its implementing Royal Reola ECREE of 6.5.1940, n. 635 as well as specific forecasts of the Legislative Decree n. 42/204 "Code on Cultural Heritage and Landscape" and by law no</p>

		231/2007
<b>LATVIA</b>	YES	The Law on Protection of Cultural Monuments defines the state supervision and control over protection of cultural monuments. Point 7 of the chapter 26 defines, that the State Inspection for Heritage Protection has right to control antique-shops and second-hand shops, art galleries and auctions of art objects, in order to prevent illegal deals with cultural monuments or, if it is necessary, to protect them as cultural values
<b>LITHUANIA</b>	YES	Resolution of the Government on the Approval of Description of Procedure for Trade of Antiques (17 June 2009, No 1480); Resolution of the Government on the Approval of Description of Procedure for Holding of Auctions of Movable Cultural Property and Antiques (9 May 2001, No 393)
<b>LUXEMBOURG</b>	NO	
<b>MALTA</b>	----	
<b>NETHERLANDS</b>	YES	Art. 437 Penal Code: obligation for dealers to register the acquisition of goods (date of acquisition, description of the item, acquisition price and possible conditions, name and address of the seller)
<b>PORTUGAL</b>	YES	<p>The Cultural Heritage Law (Law N° 107/2007, of September 8<sup>th</sup>) in article 69 (7) - Commerce and Return Regime – states that the development law shall regulate the purchase, sale and commerce of antiques and other cultural goods. However such a development law has yet to be issued. The same article deals with the commerce of goods unlawfully removed from their territory of origin:</p> <p>Article 69 (1) – In conditions of reciprocity, the transactions in Portuguese territory of cultural goods belonging to the cultural heritage of another State and that are in the national territory in consequence of the violation of their respective protection laws, are null.</p> <p>Article 69 (2) – The cultural goods mentioned in the former number of this article are to be returned in accordance with the terms of the communitarian or international law that binds the Portuguese State.</p> <p>Article 69 (3) – The return of cultural goods belonging to the cultural heritage of other Member States may be limited to the categories of objects stated in communitarian law.</p> <p>Article 69 (4) – The return actions shall be dealt with by judicial courts and their active legitimacy shall be exclusively of the State from where the cultural good has been illegally removed as long as it is a Member State of the U.E. or a State in reciprocity conditions according to Portuguese law.</p> <p>Article 69 (5) – In return actions, only the following will be discussed: a) If the object whose return is requested is considered a cultural good in accordance to the applicable rules; b) If, according to the applicable rules, the object was unlawfully removed from its State of origin; c) If its holder or possessor acquired it in good faith; d) The amount to be paid in compensation to the holder or possessor in good faith; e) Other aspects of the conflict of interests may be discussed in the return action in accordance with the applicable rules of communitarian or international law.</p>

		Article 69 (6) – The return action shall not take place when the requested cultural good is part of the Portuguese cultural heritage.
<b>ROMANIA</b>	YES	Law no 182/2000 on the protection of national movable cultural heritage, republished, Art. 35; the law provisions that the public sale of movable cultural objects, held in private property, or the mediation of the commercial exchange is only performed through authorised economic agents. The authorisation is given by the Ministry of Culture and National Heritage with the prior endorsement of the National Commission of Museums and Collections. The authorised economic agents shall comply to the rules of trade established in the specific methodological norms. All authorised agents are bound to keep a register containing relevant information on the cultural goods offered for sale as well as on the offerers of these goods. Government Decision 1420/2003 on the approval of the Norms regarding the movable cultural goods trade, modified and completed: The normative act provisions the authorisation procedure, the issuing procedure of the functioning authorisation, as well as the rules for the movable cultural goods trade
<b>SPAIN</b>	YES	Royal Decree 111/1986. Article 26 is about the obligation to communicate the transmissions of items not included in the levels of protection, depending of a list of values. Art. 40-44 are about transmissions of cultural goods
<b>UK</b>	YES	Art dealers and auction houses are covered by the legislation relevant to illicit trade (see the annex).

**26. Are art dealers and auction houses informed of the provisions of Unidroit Convention concerning “due diligence” (article 4) (Note: For member states that have ratified or accepted the Convention)?**

<b>YES= 7; NOT RATIFIED=5; NOT RELEVANT=1; NO=4 ; NO ANSWER=4</b>	
	<b>Response</b>
<b>AUSTRIA</b>	Not ratified
<b>BELGIUM</b>	NO Since Belgium has not signed up the Unidroit Convention, most international art dealers, active in Belgium have insight and knowledge of this article of the Unidroit Convention
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	Not ratified
<b>DENMARK</b>	Not ratified
<b>ESTONIA</b>	Not ratified
<b>FINLAND</b>	YES
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES
<b>GREECE</b>	NO As the Unidroit Convention has recently been in force they have not yet been informed, but they will be soon with a circular and specific guidelines
<b>HUNGARY</b>	YES A special printed information leaflet containing the ICOM Ethics of Acquisition and the UNESCO Code of Ethics for art Dealers was issued and disseminated. All these texts

		including the relevant Conventions and the related national laws can be accessed on the web page of the National Office of Cultural Heritage (KÖH).
<b>ITALY</b>	----	
<b>LATVIA</b>	----	
<b>LITHUANIA</b>	YES	
<b>LUXEMBOURG</b>	NO	
<b>MALTA</b>	----	
<b>NETHERLANDS</b>	Not relevant	
<b>PORTUGAL</b>	----	
<b>ROMANIA</b>	YES The UNIDROIT Convention was ratified by law, therefore it has been brought to public knowledge. When requesting authorisation, the economic agents are declaring that they have acknowledged the legal regulations directly concerning the their field of activity	
<b>SPAIN</b>	YES The UNIDROIT Convention is only a few years that is applied but the Ministry of Culture makes meetings with the Spanish art market where they are informed about the general normative which is in force	
<b>UK</b>	Not ratified	

**27. Are dealers and auction houses supervised and/or controlled by a national authority or other body?**

**YES= 13; NO= 7; NO ANSWER=1**

	Response	Relevant provisions
<b>AUSTRIA</b>	YES	Checks of the auction catalogues of auction houses are done by police and BDA on a regular basis as well as routine checks of flea-markets.  If an export license is needed they have to contact BDA.
<b>BELGIUM</b>	NO	
<b>CYPRUS</b>	NO	
<b>CZECH REPUBLIC</b>	YES	Dealers and auction houses are controlled if they keep the Act No. 71/1994 Sb. They can be sanctioned for the breach of law by The Ministry of Culture up to CZK 5, 000 000
<b>DENMARK</b>	NO	
<b>ESTONIA</b>	YES	Control is not very strong, but the National Heritage Board makes overview of and control the auctions and art galleries continuously
<b>FINLAND</b>	NO	
<b>FRANCE</b>	YES	CVV
<b>GERMANY</b>	YES	Factory inspectorates, i.e. Gewerbeaufsichtsbehörden (§ 29 Absatz 1 Nr. 5 Gewerbeordnung)
<b>GREECE</b>	YES	See Q. 25
<b>HUNGARY</b>	YES	The control carried out by the National Office of Cultural Heritage (KÖH) is based on responsibilities of KÖH concerning classified cultural goods. Art dealers and auction houses have to make report to KÖH if they offer any classified object for sale. For this reason they regularly send auction catalogues to KÖH. In this way KÖH is able to scan all the catalogues looking for not only classified but stolen objects too. (Since KÖH is responsible for maintaining a database of stolen cultural goods.) No special attention is paid to electronic sales on the web. (N.b. Most valuable objects are still offered in traditional ways either by auction houses or by galleries. Nevertheless KÖH regularly receives reports from different parties on 'suspicious' cultural goods offered for sale on

		different web pages [vatera.hu; ebay.com; etc].)
ITALY	YES	In Particular the Royal Decree No 18.6.131 No 773 in its rules implementing the Royal Decree 6.5.1940, n. 635 and Law 689.1981
LATVIA	NO	
LITHUANIA	YES	By the Department of Cultural Heritage under Ministry of Culture
LUXEMBOURG	NO	
MALTA	----	
NETHERLANDS	YES	The Police (or another authority indicated by the mayor of the relevant city) might control the registration of dealers cf. art. 437 Penal Code
PORTUGAL	YES	Art dealers and auction houses are controlled by the Portuguese Judiciary Police, according to its internal organisation law. The attributions of IMC include, according to article 4 (d) of Law 97/2007, of March 29 <sup>th</sup> , the coordination of the commission for the monitoring of the commerce of movable cultural goods while the competences of the commission will be defined in a law of its own. As yet the specific law on this matter has to be developed. However IMC accompanies the activity of commercial agents as to the cultural goods on the market that may be of interest to public collections and to the transaction of legally protected or listed goods.
ROMANIA	YES	Ministry of Culture and National Heritage: issues the authorisation with the prior endorsement of the National Commission of Museums and Collections and suspends or annuls the authorisation, in very specific cases. The specialists of the decentralized bodies of the Ministry of Culture and National Heritage are entitled to sanction the art dealers/auction houses that do not comply with the legal provisions related to the cultural goods trade (functioning without authorisation, not keeping the register mentioned at point 25, not complying with the terms and conditions regarding the sale of movable cultural goods classified as thesaurus). Relevant normative acts: see answer to point 25
SPAIN	YES	The auction houses have the obligation to inform to the Ministry of Culture about the auctions with a previous time (two months)
UK	NO	

28. Are antique dealers obliged to maintain a register recording the origin of each item of cultural property, names and addresses of the supplier, description and price of each item sold, and to inform the purchaser of the cultural property of the export prohibition to which such property may be subject as it is provided for by article 10b of the 1970 Unesco Convention (**Note: Twenty two (22) member states are contracting members of the Convention**)

<b>YES= 12; NOT RATIFIED=2; NO=5; NO ANSWER=2</b>	
	<b>Response</b>
AUSTRIA	Not ratified
BELGIUM	NO Not for the moment, see answer to question 3b
CYPRUS	NO
CZECH REPUBLIC	YES
DENMARK	YES
ESTONIA	NO only objects brought from abroad has to be examined and get a import license

<b>FINLAND</b>	YES
<b>FRANCE</b>	YES
<b>GERMANY</b>	YES
<b>GREECE</b>	YES See Q25
<b>HUNGARY</b>	NO
<b>ITALY</b>	YES
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	YES Under the description of this procedure there will be foreseen that the Department of Cultural Heritage shall provide the information to the holder of auction (legal entity which has license) about the conditions for Exporting of Movable Cultural Property and Antiques from the Republic of Lithuania which are offered for the sale at auction. Each item of antique which is provided for sale on auction must have special information card (names and addresses of supplier, description, price, etc.)
<b>LUXEMBOURG</b>	Not ratified
<b>MALTA</b>	----
<b>NETHERLANDS</b>	YES
<b>PORTUGAL</b>	----
<b>ROMANIA</b>	YES
<b>SPAIN</b>	YES
<b>UK</b>	YES

**29. Are antique dealers subject to penal or administrative sanctions if they do not maintain a register as provided for in article 10b of 1970 Unesco Convention?**

<b>YES= 11; NOT RATIFIED=1; NO= 8; NO ANSWER=1</b>		
	<b>Response</b>	<b>Relevant provisions</b>
<b>AUSTRIA</b>	Not ratified	
<b>BELGIUM</b>	YES In discussion in Belgium, see answer to question 3b	
<b>CYPRUS</b>	NO No procedure has been adopted for the implementation of the above	
<b>CZECH REPUBLIC</b>	NO	
<b>DENMARK</b>	YES Act 223 of 8 June 1966 on trade with second-hand goods and pawnshops.	
<b>ESTONIA</b>	NO	
<b>FINLAND</b>	NO	
<b>FRANCE</b>	YES	
<b>GERMANY</b>	YES Administrative sanction (§21 Absatz 1, Nr. 1 Kulturgüterrückgabegesetz): up to 50.000 Euros	
<b>GREECE</b>	YES	Antiquities dealers and traders in modern monuments are forbidden to obtain cultural goods for which there are indications that they originate from theft, illegal excavation or other unlawful act or that these items were acquired or exported in breach of the legislation of their state of origin; they are also obliged to keep the competent service informed of any such offer. The violation of these provisions shall entail the possibility of having the relevant license revoked, temporarily or permanently. See Q25 for sanctions
<b>HUNGARY</b>	NO	
<b>ITALY</b>	YES	the provisions contained in the Royal decet of 18.6.1937, n. 774, except those matters provided for and punished by the Penal Code and special laws
<b>LATVIA</b>	NO	

LITHUANIA	YES	Under the description of the procedure of auction in the Republic of Lithuania is possible to offer only legally acquired antique
LUXEMBOURG	NO	
MALTA	----	
NETHERLANDS	YES	art 437 Penal Code: custody (of 6 months at the most), fine (up to the third category) or deprivation of the profession. See also under 9 and 13
PORTUGAL	YES	As antique dealers must, in accordance to the internal organisation law of the Judiciary Police, surrender that information whenever requested, it is inferred that they keep records
ROMANIA	YES	It is considered a contravention (art.78 alin. (1) letter i) of Law 182/2000)
SPAIN	NO	The sanction can be applied to the auction houses which sell tainted objects depending on the legal classification of taint (illegal export from other countries, illegal import, contraband, archaeology spoliation, theft, etc.). They have the obligation to sell objects with legal provenance, and otherwise the Police can confiscate the tainted object and apply the general legislation. The sanctions depend on the degree of crime. After that, the relevant provisions are: a] Law 16/1985 of Spanish Historic Heritage, Title IX, articles 75 (illegal export can be considered crime of contraband or administrative sanction, it depends on the items value), 76 (about the sanctions), 77 (procedure of audience), 78 (procedure of sanctions), and 79 (prescription of crime); b) Law 30/1992 of Procedure and Regime of Public Administrations, Title IX; c) The Organic Law 10/1995 of Penal Code; d) Law 12/1995 of repression of contraband.
UK	YES	For VAT purposes dealers and auction houses must ensure their business records contain this information and a failure to keep proper records would be a VAT offence. Furthermore, dealers, whether or not registered for VAT, also need to keep adequate records of their transactions for the purposes of accounting to HM Revenue and Customs There is a financial penalty for a failure to keep or produce the records required by law

**30. If there is suspicion by dealers/auction houses that a tainted object is promoted for sale, what procedures are followed?**

**YES= 13; NEED FURTHER CLARIFICATION=2; NON AVAILABLE INFO= 1; YES POTENTIALLY=1; YES/NO=1; NO ANSWER=3**

	Response	Examples
AUSTRIA	YES Objects that have been subject to a crime will be seized by Police provided that a permission of a public prosecutor is available. Investigations will follow to check the provenance and previous owners of the tainted object. BDA usually asks for safeguarding. BDA informs the police in case of a stolen object	
BELGIUM	YES Investigated by specialized police unit art theft. Procedures according to Belgian law and status of the object	
CYPRUS	YES The Police, the Legal Services and the Ministry of foreign Affairs is notified	
CZECH REPUBLIC	NEED FURTHER CLARIFICATION Each dealer can examine the suspected object in public database of stolen	

	artworks	
<b>DENMARK</b>	YES POTENTIALLY The police are supposed to be informed	
<b>ESTONIA</b>	YES If there is suspicion auction house has to control data about the item in databases (Interpol, Lost Art, database of stolen art objects of the Ministry of Culture of Russia)	
<b>FINLAND</b>	Information not available	
<b>FRANCE</b>	----	
<b>GERMANY</b>	YES/NO They hopefully inform the cultural authority of the federal state of Lower Saxony (Ministry of Science and Culture) or the police who inform the other authorities	
<b>GREECE</b>	YES	See Q. 29
<b>HUNGARY</b>	YES	It depends on the attitude of the concerned dealer or auction house. Awareness has increased recently and public access of the database of stolen cultural goods made most of them avoid illicit ways.
<b>ITALY</b>	YES (perhaps with a NEED for FURTHER CLARIFICATION)	We carry out the surveys police giudiziaria sunolon that the case requires, according to the rules laid down by the Criminal Code
<b>LATVIA</b>	YES	In such cases actions are according the Criminal Law (17.06.1998).
<b>LITHUANIA</b>	YES	Annulations of a tainted object from auction and request for more information
<b>LUXEMBOURG</b>	NEED FURTHER CLARIFICATION	Loi du 9 janvier 1998 précitée
<b>MALTA</b>	----	
<b>NETHERLANDS</b>	YES	In general it can be said that the institution seeks the help of the Netherlands Police Agency/Police (KLPD) or the Cultural Heritage Inspectorate. When the outcome of the research is that the object has a tainted provenance, the necessary steps will be undertaken in order to return it to the rightful owner (in general the procedure is as follows: safe deposit, research, confiscation, legal procedure, restitution, compensation buyer in good faith)
<b>PORTUGAL</b>	----	
<b>ROMANIA</b>	YES	The dealer/auction house should inform the Police
<b>SPAIN</b>	YES	To order to the Police Bodies the confiscation with a court order and beginning the prosecution
<b>UK</b>	YES	DCMS has, in the past, facilitated liaison between interested parties. The police would be involved as soon as there is appropriate evidence

**31. If a tainted object is offered for sale, what procedures are followed?**

**YES= 12; NO=2; NEED FURTHER CLARIFICATION=3; NON AVAILABLE INFO= 1; NO ANSWER=3**

	Response	Examples
<b>AUSTRIA</b>	YES Objects that have been subject to a crime will be seized by Police provided that a permission of a public prosecutor is available. Investigations will follow to check the provenance and previous owners of the tainted object. BDA usually asks for safeguarding. BDA informs the police in case of an stolen object	
<b>BELGIUM</b>	NO Not for the moment, see answer to question 3b	
<b>CYPRUS</b>	YES	

	The Police, the Legal Services and the Ministry of Foreign Affairs is notified	
<b>CZECH REPUBLIC</b>	YES	Checking the databases of stolen cultural goods and classified cultural objects
<b>DENMARK</b>	NO?	Apart from general police observations of the market, no formal control is practised.
<b>ESTONIA</b>	YES	If it is known that it is tainted object it will be given to the police
<b>FINLAND</b>	Information not available	
<b>FRANCE</b>	----	
<b>GERMANY</b>	YES	If the responsible authority (especially the Ministry of Science and Culture of Lower Saxony) was informed and then affirms an urgent suspicion that the object is tainted, it stops the object (§ 8 Absatz 2 Kulturgüterrückgabegesetz) and informs the origin country or the countries who may be the origin countries of the object from where the object was exported without permission
<b>GREECE</b>	YES	See Q. 25, 29
<b>HUNGARY</b>	NEED FURTHER CLARIFICATION	Any official procedure can only be launched if the illicit origin can (at least partly) be proved.
<b>ITALY</b>	NEED FURTHER CLARIFICATION	The sale is suspended to ascertain the provenance
<b>LATVIA</b>	YES	In such cases 1) the dealer or auction house has been warned, 2) the object has been checked in the register of protected cultural monuments, 3) application to the police has been prepared and handed in.
<b>LITHUANIA</b>	YES	Under the description of this auction procedure in the Republic of Lithuania is possible only to sell legally acquired antique
<b>LUXEMBOURG</b>	NEED FURTHER CLARIFICATION	Loi du 9 janvier 1998 précitée
<b>MALTA</b>	----	
<b>NETHERLANDS</b>	YES	In general it can be said that the institution seeks the help of the Netherlands Police Agency/Police (KLPD) or the Cultural Heritage Inspectorate. When the outcome of the research is that the object has a tainted provenance, the necessary steps will be undertaken in order to return it to the rightful owner (in general the procedure is as follows: safe deposit, research, confiscation, legal procedure, restitution, compensation buyer in good faith)
<b>PORTUGAL</b>	----	
<b>ROMANIA</b>	YES	The dealer/auction house should inform the Police. The cultural good shall be confiscated by the Police
<b>SPAIN</b>	YES	In this case, the Ministry of Culture informs to the Police for the tainted object and the seller could be investigated, and for making the confiscation with a court order
<b>UK</b>	YES	This would be a matter for the police and the courts

**32. Are there any penal or administrative sanctions if a tainted object is offered for sale?**

**YES=14 ; NO=5 ; NO ANSWER=2**

	Response	Sanctions
<b>AUSTRIA</b>	YES	Objects that are affected by a criminal offence will be seized by Police, provided that a permission of a public prosecutor is available. The sanctions depend on the crime committed (e.g. handling stolen goods)

<b>BELGIUM</b>	NO	Unless in cases of healing
<b>CYPRUS</b>	YES	If a Cypriot antiquity was illegally acquired, the Antiquities Law provides for imprisonment (not exceeding 36 months) and/or a fine. Court orders may be issued in the cases of objects that belong to a member state, according to Law 183(I)/2002, based on the 93/7 EU Directive
<b>CZECH REPUBLIC</b>	NO	
<b>DENMARK</b>	YES	In cases in conflict with Part 5 of the Penal Code, for instance in case of handling stolen goods
<b>ESTONIA</b>	NO	
<b>FINLAND</b>	NO	Under certain circumstances Criminal Code may be enforced
<b>FRANCE</b>	YES	
<b>GERMANY</b>	YES	If the offering person knows that the object is tainted <ul style="list-style-type: none"> <li>• Possibly – if knowing the origin of the object - a penal sanction of receiving of stolen goods (Hehlerei, § 259 Strafgesetzbuch or Begünstigung, § 257 Strafgesetzbuch)</li> <li>• Possibly losing the permission of carrying on with the business</li> </ul>
<b>GREECE</b>	YES	Annulment of permits and penal sanctions See Q. 25, 29
<b>HUNGARY</b>	NO	Nothing beyond the general rules of selling any stolen objects laid down in the Penal Code
<b>ITALY</b>	YES	The seller may be responsible for violations defined and penalized by the Criminal Legislativ Decree 42/2004 and other special rules
<b>LATVIA</b>	YES	In such cases sanctions has been applied according the Criminal Law (17.06.1998) regarding trade of stolen objects
<b>LITHUANIA</b>	YES	According to the national laws, suspension or revocation of license
<b>LUXEMBOURG</b>	YES	Article 505 of the Criminal Code (délit de “recel”): prison sentence between 15 days and 5 years and penalty/fine between 251 and 5.000 EUR
<b>MALTA</b>	----	
<b>NETHERLANDS</b>	YES	Procedures are laid down in Directive (EC) 93/7 and the Implementation Act of the 1970 UNESCO Convention (2009). National authorities (Police, Customs and Cultural Heritage Inspectorate) will act accordingly
<b>PORTUGAL</b>	----	
<b>ROMANIA</b>	YES	Special confiscation of the cultural good in case (as stipulated in the Penal Code under the Art.118.) If the cultural good belongs to another country’s cultural heritage and has been illicitly exported, the possession, trade, the exhibit or any other operation related to the circulation of that cultural good is considered an infraction and is punished with 3-10 years of prison (art.89 of Law no.182/2000)
<b>SPAIN</b>	YES	When it is the case, it usually finishes in a processing in the Court
<b>UK</b>	YES	Depending on the circumstances the person may be guilty of dealing in a tainted object and liable for imprisonment up to seven years and/or a fine. If the tainted object is a stolen good the person guilty of offering the object for sale is liable to imprisonment for up to fourteen years. See annex

**33. Do art dealers/auction houses have access to national databases for stolen objects?**

YES= 9; NO=10 ; NO ANSWER=2	
	Response
<b>AUSTRIA</b>	NO However, access is possible to the national website "Stolen Works of Art": <a href="http://www.bmi.gv.at/fahndung">www.bmi.gv.at/fahndung</a> , and since 17 <sup>th</sup> August 2009 to the Interpol database "Stolen Works of Art"
<b>BELGIUM</b>	YES On request and after screening the demand by the police
<b>CYPRUS</b>	NO
<b>CZECH REPUBLIC</b>	YES
<b>DENMARK</b>	NO only to INTERPOL's databases
<b>ESTONIA</b>	NO
<b>FINLAND</b>	NO One of the resolutions of the committee in 2007 (cf. answer to question 4b) was that a national database of stolen cultural objects should be created. The planning of this database is underway. Information given by such a database would be essential to national authorities, museums, libraries and archives as well as art dealers and auction houses
<b>FRANCE</b>	YES Indirect
<b>GERMANY</b>	YES They can ask the national authority, i.e. the Representative of the German Government for Culture and Media)
<b>GREECE</b>	NO They are obliged however to declare any transaction to the competent authority for controlling them and to the central authority of the Ministry who is responsible for the databases of stolen objects
<b>HUNGARY</b>	YES
<b>ITALY</b>	YES
<b>LATVIA</b>	NO
<b>LITHUANIA</b>	YES
<b>LUXEMBOURG</b>	NO
<b>MALTA</b>	----
<b>NETHERLANDS</b>	NO
<b>PORTUGAL</b>	YES They have access to all the public data bases. Furthermore, the Code of Ethics of the Portuguese Association of Antique Dealers states that they must be informed about the available instruments for the detection of stolen objects namely records and data bases. Such instruments should be consulted whenever necessary.
<b>ROMANIA</b>	YES
<b>SPAIN</b>	NO to databases included in the websites with minimum and technical information (i.e., INTERPOL, Spanish Guardia Civil, etc.), but not to internal databases with full information from Police or Ministry of Culture
<b>UK</b>	NO There is no Government sponsored national database in the UK. However, dealers and auction houses have access to commercial databases and to the Metropolitan Police Art and Antiques Unit's London Stolen Arts Database

**CONCLUSION**

We took into consideration 21 answers. From those 9 ms answered "YES", 11 "NO", and 1 with no answer.

From all the questions concerning art dealers and auction houses, it seems that out of the 15 member states that we have answered (Italy and Malta have not replied this part of the Questionnaire), the majority of the ms have provisions in their national law, except Estonia and Luxembourg.

10 ms have a national authority supervising art dealers and auction houses as well as obliging them to maintain a register recording the details of each item of cultural property. For not maintaining this register, 7 ms have administrative or penal sanctions.

12 ms have also administrative or penal sanctions if a tainted object is offered for sale by art dealers or auction houses.

## Due diligence: Study of the Member States' responses to the 1<sup>ST</sup> Questionnaire

Stolen objects	
<b>Hungary</b>	<p>In the framework of the project Single Window Customs Procedure Project, the following goals should be reached:            direct access for customs to the database of export licences of cultural goods            creating the possibility of electronic licensing            connecting the present databases of classified, exported and stolen cultural goods            adaptation of the French TREIMA 2 stolen art database software</p> <p>A separate database of stolen cultural goods does exist (since 2004) and is maintained by KÖH.</p> <p>In order to help criminal investigation and return of stolen objects a so called 'Home-made inventory program' was launched by police and culture (KÖH). It is about a simple registration form for cultural goods (adequate to Object ID) recommended for owners of any cultural objects so that they can provide proper data and photo for police (and for the database of stolen art) in case of theft.</p> <p>The National Office of Cultural Heritage (KÖH) provides professional assistance for police and customs – 24 hours service (30-50 cases per year)</p> <p>Investigating police forces (in towns and regions) should report each theft of cultural goods to the central point at the National Police Headquarters and then information is forwarded to KÖH for entering data in the public database of stolen art. This is a web based database parallel with the general police object search-system. Database of stolen art contains data of more than 2.000 stolen objects and can be accessed freely through the web page of KÖH. (Unfortunately only in Hungarian.) In certain cases pieces of information are forwarded to the INTERPOL Centre in Lyon, France.</p>
<b>Portugal</b>	Both GNI and the Police Heritage Department possess a data base on stolen cultural goods which <u>can be found online</u> . The good relationship between these national institutions assures that if not all at least a great part of the cultural goods entering our country is not part of the illicit trafficking
<b>Slovenia</b>	Database of stolen works of art (police authorities)

Auctions	
<b>Hungary</b>	There is no special legislation on art market in Hungary. Several points of different laws and regulations are related to art dealers and auction houses. From cultural point of view the control carried out by the National Office of Cultural Heritage (KÖH) is the most important. This control is based on responsibilities of KÖH concerning classified cultural goods. Art dealers and auction houses have to make report to KÖH if they offer any classified object for sale. For this reason they regularly send auction catalogues to KÖH. In this way KÖH is able to scan all the catalogues looking for not only classified but stolen objects too. (Since KÖH is responsible for maintaining a database of stolen cultural goods.)
<b>Portugal</b>	Portuguese auctioneers need to give a full monthly report to the Police on their new acquisitions in order to be verified by the authorities.
<b>Slovenia</b>	Merchants who deal with cultural heritage must keep a record on all business with cultural goods

<b>Internet sales</b>	
<b>Hungary</b>	No special attention is paid to electronic sales on the web. (N.b. Most valuable objects are still offered in traditional ways either by auction houses or by galleries. Though K�H regularly receives reports from different parties on 'suspicious' cultural goods offered for sale on certain web pages [vatera.hu; ebay.com; etc].)
<b>Portugal</b>	The control of electronic sale on the Web because this is an internal issue of the Police Authorities
<b>Slovenia</b>	-----

<b>Import control</b>	
<b>Hungary</b>	No special control (except for the general rules of the customs procedure of the EU in case of importation from a non EU country). Reason: not enough attention is paid to such questions. (Lack of awareness...)
<b>Portugal</b>	Procedures are carried out by Customs. In case of doubt about the provenance, legitimate ownership or cultural value of the item the Institute of Museums and Conservation is asked to evaluate the situation and to give professional advice on this matter
<b>Slovenia</b>	-----

<b>Export control</b>	
<b>Hungary</b>	-----
<b>Portugal</b>	All cultural goods leaving Portugal to and from another member state - as well as to a third country - should be declared to the Ministry of Culture at least 30 days before their departure. During this period, the administration will verify if the item wasn't stolen or hasn't illicit property.
<b>Slovenia</b>	-----