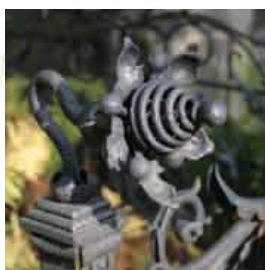


Stop heritage crime

Good practices and recommendations



The project „Legal and illicit trade with cultural heritage. Research and education platform of experience exchange in the field of prevention from crime against cultural heritage“

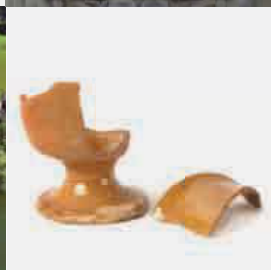
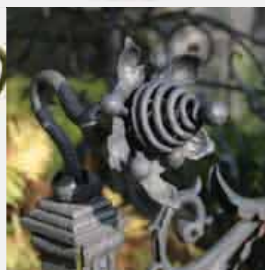
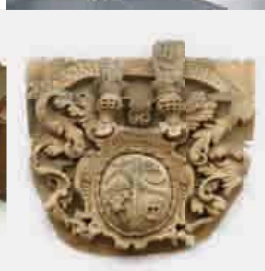


Legal and illicit trade with cultural heritage
Research and education platform of experience exchange in the field
of prevention from crime against cultural heritage

Warszawa 2011

Stop heritage crime

Good practices and recommendations



The project „Legal and illicit trade with cultural heritage. Research and education platform of experience exchange in the field of prevention from crime against cultural heritage”

Partners



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and National
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ul. Szwoleżerów 9, 00-464 Warszawa
22 628 48 41, e-mail: info@nid.pl

Project coordinator:
Aleksandra Chabiera

Technical coordinator:
Michał Aniszewski

Scientific editing:
Liv Ramskjær, Anne Nyhamar, Aleksandra Chabiera, Michał Aniszewski

Proofreading:
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Introduction

The idea of a joint Polish-Norwegian project on legal and illicit trade with cultural heritage was first brought up during an expert meeting of the Monitoring Group on Cultural Heritage in the Baltic Sea States in early 2008. By then, the question of crime against heritage had become an important issue to all countries involved in the Baltic network. Through the Cultural Exchange Fund, the national heritage agencies of Poland and Norway – the National Heritage Board of Poland (Narodowy Instytut Dziedzictwa, formerly Krajowy Ośrodek Badań i Dokumentacji Zabytków) and Arts Council Norway (Norsk Kulturråd, formerly ABM-utvikling) along with the Norwegian Directorate for Cultural Heritage (Riksantikvaren) and with the support of the Maritime Museum in Gdansk (Centralne Muzeum Morskie) - decided to investigate this topic further. The intention was to analyze the situation and devise recommendations which could be distributed throughout the whole Baltic Sea Region.

The primary aim of the project was to create a forum of exchange of experience between Polish and Norwegian professionals involved in the fight against the illicit trade of cultural objects. The experts who took part, represented a wide range of stakeholders: heritage professionals, museum workers, field archaeologists, NGO members, journalists, tour operators as well as representatives of the Police, Customs, the Border Guard and the Army. During three consecutive workshops – two in Oslo and one in Gdansk and the final conference in Warsaw - we shared knowledge and experience on how to face this challenge and how to implement existing national laws and international conventions.





Although we face very different challenges on a national level, we recognise that illicit trade of cultural goods is a type of crime which transcends national boundaries. We also recognise that it is a type of crime which can only be counteracted through international collaboration – the exchange of knowledge, the exchange of experience and a common set of rules. The wide and inclusive approach of the project resulted in the extension of cooperation between involved institutions, and showed areas which would benefit from change or improvement.

In this publication we present the results of our work. We have tackled the issue of the illicit trade of cultural heritage from different angles and with examples from Poland and Norway. We hope this publication will prove a useful of reference tool for the many issues raised during the project.

To conclude, as the project team, we would like to thank all those who contributed to this work with their knowledge and experience. We would also like to thank the governments of Norway and Poland which made the realization of this important project possible.

Paulina Florjanowicz

Narodowy Instytut Dziedzictwa

Anne Aasheim

Norsk Kulturråd

Jørn Holme

Riksantikvaren

Jerzy Litwin

Centralne Muzeum Morskie



Legal and illicit trade in cultural heritage

Sidsel Bleken

Counsellor at the Norwegian Embassy, responsible for the EEA, Norway grants, Cultural Exchange Fund

The objective of the EEA and Norway grants is to reduce social and economic disparities in Europe. The objective is also to strengthen the bilateral relationship between Poland and Norway.

The protection of cultural heritage has been, and will continue to be, an important priority for the EEA and Norway grants. I am pleased that money is not only allocated to the revitalisation of monuments, but also to enforce the knowledge and awareness of the need for preventing illicit trade in cultural objects.

The Cultural Exchange Fund has been an important tool for increasing cultural cooperation and establishing long-term relationships between cultural institutions in Poland and Norway. I am pleased that more than 70 projects have been supported, and a large number of events have taken place both in Norway and Poland, including music and theatre performances, art exhibitions, and workshops for artists and experts within the various areas of art and cultural heritage.

National characteristics are found in cultural expressions in the forms of traditions, ideals, customs, values, music, art, designs, performances, architectural forms, handicrafts and narratives, therefore, cultural objects constitute an important part of our national identity.



People travel more and more, and increasingly to distant and exotic places. The cultural impressions travel back home with us, sometimes as cultural objects. Many travellers are not aware of the fact that bringing cultural objects home deprives their countries of origin of the historical values that are important to their identity. Often this is more a matter of ignorance and carelessness than intentional crime.

Cultural treasures constitute great values. There is, therefore, also unfortunately, an international market for the illicit trade of such items. Countries at war and countries with weak legal systems and little control are the most vulnerable to such trade. The cultural

objects that are traded on this black market are difficult to trace and to bring back.

International cooperation is necessary to meet the challenges, both from ignorant travellers and from criminals. The UNESCO convention is important in this respect. I am pleased that Poland and Norway can learn from one another through the sharing of knowledge and experiences, this will improve awareness and actions in both countries.

The project on legal and illicit trade in cultural heritage has been a source of inspiration and I hope that it will also be a foundation for future cooperation between Poland and Norway within the area of protecting cultural heritage.



The Cultural Exchange Fund has been an important tool for increasing cultural cooperation and establishing long-term relationships between cultural institutions in Poland and Norway”



Looting and illicit trade in cultural heritage – problems that cannot be solved by one state or one sector alone

Marianne Lehtimäki

Coordinator, Monitoring Group on Cultural Heritage in the Baltic Sea States

Management of cultural heritage is faced with challenges that are becoming increasingly international and which cannot be solved by one state or one sector alone. Illicit trade in cultural heritage is an illustrative example of this, as looting of archaeological sites and international illicit trade of cultural goods are serious problems concerning all countries. Counteracting and preventing it requires cross-border and cross-sector cooperation as well as the involvement of public servants, entrepreneurs and the general public.

The Monitoring Group on Cultural Heritage in the Baltic Sea States provides a well-established infrastructure to handle common problems connected with heritage issues at a regional level. The Monitoring Group is composed of executive experts from national heritage agencies and ministries of culture which are appointed by the Ministries of Culture. This intergovernmental network was initiated by the Ministers of Culture in the Baltic Sea States in 1996 as one of several attempts to reconnect the region after the collapse of the Soviet Union. Norway and Iceland are important participants of this regional cooperation in the political framework of the Council of the Baltic Sea States.

The participating national heritage agencies implement legislation concerning cultural heritage management and are in charge of the policy-making. They have a national overview of the heritage, resources, actors and threats, and develop strategies to process arising challenges. They are engaged in collaborating with central national stakeholders and the general public. These national heritage boards carry out and implement international conventions and recommendations, such as,

for example, the European Convention on the Protection of the Archaeological Heritage signed in Valetta 1992.

Within this regional cooperation, national expertise has been exploited in order to build bridges over development gaps and to identify the forms and themes for common approaches. Already in the first report to the Ministers of Culture in 1999, the Monitoring Group noted the illicit export of and threats to movable cultural heritage as one of the challenges in the region (Final report, 1999, 9). An increase in trading via the Internet, an (illicit) global art market, the Schengen treaty and cheaper metal detectors only renewed the need for joint efforts to be taken.

The topic was covered in regional seminars arranged by the Monitoring Group in cooperation with Archäologisches Landesamt Schleswig-Holstein and the Landesamt für Bodendenkmalpflege Mecklenburg-Vorpommern in 2005 (Report 4, 2005, 29), and in 2007 in Stockholm as part of the Swedish CBSS Presidency program (Report 5, 2008, 18). The latter seminar used information from the Nordic joint study on crimes against cultural heritage which were reported in a publication entitled Cultural Heritage Crime – the Nordic Dimension (Korsell et al., 2006). With current collaboration underway this work is being carried on further and in a wider context.



“
In order to take into account public and private rights and responsibilities, the public and private actors should work together more closely”



Members are becoming acquainted with the Skálholt archaeological excavation in Iceland.
Photo: Maire Mattinen 2008.

Illicit looting and trade also concern underwater heritage. The regional Working Group on Underwater Heritage, initiated by the Monitoring Group in 2001, has, together with the Monitoring Group, produced a Code of Good Practice for the Management of the Underwater Cultural Heritage in the Baltic Sea Region (COPUCH). This code is aimed at avoiding any physical interference regarding underwater cultural heritage that is not motivated by professional research objectives. The online address for COPUCH is: <http://mg.kpd.lt/LT/7/Underwater-Heritage.htm>.

Cultural heritage produces both public and private benefits and is a growing asset on the market, but often with various rules of the game. In order to take into account public and private rights and responsibilities, the public and private actors should work together more closely. This issue is, in many ways, a learning process, not only one of problem-solving, where the expertise of the heritage sector is crucial, but even of how to cooperate fluently, for example, with the police, border guards and customs officials. The public sector

needs to communicate in a convincing way with common people, the travel industry, collectors and traders in art and antiques. This conference shall assist us in making progress towards this target.

The Monitoring Group is satisfied to note that this long-term regional collaboration on cultural heritage has contributed to quality projects and well-tailored approaches, such as this one. We should send sincere compliments to the competent financing institutions, EEA and Norway Grants, which since 2004 have also enabled the professional restoration of immovable heritage objects as an exchange of knowledge and best practice within the Baltic Sea region. Our regional networks will closely study the outcomes of this project and will promote a dissemination of the results and recommendations.

Preventing the looting and illicit trade of cultural heritage items is a task that requires collaboration across borders and sectors. The Monitoring Group on Cultural Heritage in the Baltic Sea States has carried out keen regional cooperation between national state agencies on cultural heritage since 1997. The network shares information, studies best practices and creates common approaches. The network has even initiated and facilitated joint seminars on crimes against heritage.

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Legal and illicit trade with cultural heritage. Research and education platform of experience exchange in the field of prevention from crime against cultural heritage – about the project

Aleksandra Chabiera

Project coordinator, National Heritage Board of Poland

The direct aim of the project is to create a forum where professionals in the field of heritage protection can exchange experiences and suggest ways of improvement that can be beneficial to Polish and Norwegian institutions. In this publication, we would like to share these ideas by presenting good practices, ways of collaboration and problem solving presented to us during the course of the project.

A platform of knowledge exchange is key to increasing competence which is based on experience and good practices. Another important goal of the project is to share ideas on how to raise the level of awareness concerning illicit trade and how to disseminate information about the import and export of cultural objects. The project aims to contribute to raising awareness amongst the general public as well as employees of the relevant sectors, such as the travel industry and the antiques trade. In addition, it is important that awareness is raised amongst the professionals who are directly involved. All of these goals translate into better and more effective protection of cultural heritage.

The project consisted of three two-day workshops, a conference, website for professionals and the general public and a final publication – all of which should be helpful in implementing good practices in activities associated with heritage protection and the fight against illicit trade.

During the workshops, which were classified according to topic, professionals had the opportunity to take part in 'round-table' discussions. The first one, held in Oslo, entitled "Works of art, antiques, traces of material history", concentrated on illegal export and import, legislation, cooperation with the police and other similar services as well as the ethics amongst professionals and dealers in antiques and works of art.

The second workshop was organized in Gdańsk and entitled "Archaeology and underwater heritage". It was devoted to illegal archaeology and legislation, cooperation with the police and Customs Office, ethics and the plunder of underwater heritage.

The third workshop, which also took place in Oslo, was entitled "Communication and education for improving awareness" and concentrated on the methods of establishing a good dialogue with the general public and the relevant industries.

Forms of social communication were discussed and best practices in helping to improve social awareness. The workshop coincided with the opening of an exhibition devoted to the illegal trade of heritage, organized during the Travel Fair in Lillestrøm, and by an open seminar discussing the challenges related to the illicit trade of cultural artifacts. During the Travel Fair, examples of fakes were exhibited, and one could find more information in brochures about the legal aspects and general level of awareness concerning heritage value. The experts invited to the seminar were in direct contact with members of the general public (e.g. from the travel and tourism industries). This enabled them to become better acquainted with the topics of our project which also allowed them to obtain a better understanding of the central institutions' activities as well as helping the Polish experts become acquainted with various methods of education and promotion.

A platform of knowledge exchange is key to increasing competence which is based on experience and good practices"

The final conference which was held in Warsaw, welcomed about one hundred experts in the field of heritage protection. The goal of the conference was to present the results of the workshop research, the topics discussed, good practices, social campaigns and legal analyses, a comparison of Polish and Norwegian experience and the practical implementation of ratified conventions and agreements.

Another other way of promoting the project and continuing our activities

and contact in the future is through the website (www.stop-heritage-crime.org) which is planned to be an active platform for further cooperation between the experts and institutions working in the field of heritage protection. It will also be a source of information to the general public.

Communication activities which include promotional leaflets presenting the project and its goals have been printed and distributed. Also, public opinion polls

covering knowledge regarding legislation, the goals of heritage protection and legal awareness among the general public have been ordered.

The present publication is a tangible result of the experts' two years of work, workshops and conferences. Its authors hope that this publication will help in the everyday activities of the institutions and organisations working together to protect our cultural heritage.



National Heritage Board of Poland

Dariusz Bogacz

Spokesman, information bureau, National Heritage Board of Poland



The National Heritage Board of Poland (NHBP) is a modern cultural institution acting within the structures of the Ministry of Culture and National Heritage. The aim of the National Heritage Board is to create the basis for the sustainable preservation of heritage, to gather and disseminate knowledge about historical monuments and objects, to set standards for their protection and conservation and to raise public awareness of Polish cultural heritage in order to preserve it for future generations.

The National Heritage Board of Poland develops the groundwork for the conservation doctrine and the system of protecting and documenting historical monuments and objects together with new methodological standards regarding their examination, documentation and conservation. It also keeps a record of archaeological research and the National Register of Historic Monuments.

A very important task of the NHBP is to monitor, analyse and evaluate the potential threats to heritage and to develop the methods for their prevention. The NHBP is responsible for the inventory and examination of historical monuments and objects and archaeological sites, especially those that are endangered. Within these tasks the NHBP has implemented a programme for counteracting and preventing

crime against archaeological heritage. This programme covers, among others; cooperation with the police, Customs Service, Border Guard, museum institutions, conservation services and the Allegro auction website. The NHBP also monitors the antiques trade and provides substantive support in issues concerning the protection of archaeological heritage.

International cooperation

International cooperation plays an important role in the prevention of crimes against cultural heritage. The NHBP actively participates in international forums and organi-

sations related to the protection of cultural heritage and is engaged in cultural heritage protection tasks carried out by the states of the Baltic Sea basin. It has also participated in the work of a European expert group dealing with the role of heritage protection issues in EU activities. Representatives of the NHBP participate in the work of the European Heritage Legal Forum and the European Heritage Heads Forum, which consist of heads of national institutions responsible for heritage protection in their respective states. The National Heritage Board of Poland also represents Poland at the *Europea Archaeologiae Consilium* (EAC) forum.



The National Heritage Board of Poland also emphasises the very important role of educational activity, which not only inspires and stimulates the imagination, but also builds human sensitivity to heritage protection



In addition, the NHBP performs a part of the tasks of the Ministry of Culture and National Heritage as part of Poland's accession to the UNESCO World Cultural and Natural Heritage Convention of 1972. The NHBP provides the standards of protection, conservation and presentation of World Heritage sites. It monitors and evaluates the state of these World Heritage sites and coordinates work, prepares management plans and oversees their implementation for the particular sites. The NHBP also coordinates work on periodic reports concerning state policy as to the implementation of the UNESCO World Heritage Convention.

Education

Aware of the fact that cultural heritage should not be taken for granted and re-

quires special protection for future generations, the National Heritage Board of Poland organises social and educational programmes and campaigns as well as voluntary work for the benefit of cultural heritage. The NHBP also emphasises the very important role of educational activity, which not only inspires and stimulates the imagination, but also builds human sensitivity to heritage protection. Extending public awareness on the value of domestic culture and appreciating the sources of the most important values in heritage will make it possible to protect material and non-material heritage to the fullest extent possible in accordance with the idea of sustainable growth.

More information about the National Heritage Board of Poland can be found at www.nid.pl.

Arts Council Norway - Norsk Kulturråd

Liv Ramskjaer

Arts Council Norway (Norsk Kulturråd)



Arts Council Norway is the main governmental institution responsible for the implementation of Norwegian cultural policy. It functions as an advisory body to the central government and public sector on cultural affairs and is fully financed by the Ministry of Culture. Arts Council Norway was established in 1965 in order to administer the Norwegian Cultural Fund. Today, the Arts Council is in charge of a broad spectrum of administrative tasks and functions within the field of culture – including artists' grants, the Audio and Visual Fund and a number of other funding schemes. As of 2011, Arts Council Norway also manages governmental initiatives in the museum and archive sectors, including all tasks previously performed by ABM-utvikling (the Norwegian Archive, Library and Museum Authority). The Arts Council has a staff of about 100 employees.

In 2011, the total allocation from Arts Council Norway to the Norwegian cultural sector amounted to 150 million. The allocations provide funding for a variety of projects and activities within the performing arts, visual arts, music, literature, archives, museums and more.

Arts Council Norway plays a key role in coordinating and facilitating the development of Norwegian museums and archives. It seeks to encourage initiatives to strengthen management, research, dissemination and innovation in these institutions. The Arts Council is also particularly focused on digital management and development in these sectors, including establishing standards for digital retrieval/collection systems and digital presentation methodologies.

Arts Council Norway is also responsible for the distribution of public funding for cooperation and development projects within the archive and museum sector. In 2010, about 4 million was distributed to over 100 projects. The Arts Council is also responsible for allocating annual gov-

ernment subsidies to a large number of non-governmental institutions in the field. It encourages not only initiatives across the sectors, but also innovative projects in archives and museums.

Arts Council Norway is in charge of administrative functions in the sector at a national level, including the collection of statistics for archives and museums, follow-

up of regulations regarding the export of cultural goods and the implementation of the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage. Arts Council Norway administers a programme for financial support to private archives, which provides support for the preservation and presentation methods of archival material.



“
Arts Council Norway played a key role in the EEA Grants in the field of culture for the period 2009-2014”



The Cultural Fund

Arts Council Norway, comprising 10 members appointed by the government, is responsible for the management of the Norwegian Cultural Fund (€64 million in 2011) and the management of Cultural Organizations (€28 million in 2011). The final decision for the allocation of money from the Fund is made by the Council, in accordance with the "arm's length principle". The Fund's aim is to stimulate creative, literary and artistic activities, to preserve cultural heritage and to make cultural life accessible to as many people as possible. Furthermore, allocations from the Fund are to support innovative art, encourage new forms of artistic expression and stimulate new

presentation methods. The Cultural Fund consists of eight professional areas: Literature, Music, Performing Arts, Visual Arts, Cultural Heritage, Children's and Youth Culture, Arenas for Art and Other Activities. A total of nearly 3 000 arts projects received funding in 2010.

International Cultural Cooperation

Arts Council Norway played a key role in the EEA Grants in the field of culture for the period 2009-2014. The Norwegian Cultural Contact Point for the EU Culture Programme is located at Arts Council Norway, which is also involved in several other professional networks and projects on a European and international level.

Riksantikvaren - The Directorate for Cultural Heritage

Anne Nyhamar

The Directorate for Cultural Heritage

The Directorate for Cultural Heritage is responsible for the management of all Norway's archaeological and architectural monuments and sites and cultural environments in accordance with relevant legislation.

The Directorate is responsible for ensuring that a representative selection of monuments and sites from all periods is preserved for present and future generations. The selection of monuments and sites must provide an overview of historical developments, the way of life and the range of works of art and craftsmanship of each period. The Directorate also ensures that cultural heritage considerations are taken into account in all planning processes, and that the interests of cultural heritage are safeguarded at all levels in the same way as the interests of society as a whole.

In Norway, environmental policy encompasses both natural and cultural resources. The Directorate for Cultural Heritage comes under the environmental management umbrella, and answers to the Ministry of the Environment. The Directorate collaborates with other directorates in the environmental sector wherever appropriate.

Through education and information the Directorate is responsible for increasing awareness among the general public about the value of cultural heritage. It is also the appeals body for decisions made by cultural heritage authorities at county and regional level.

International projects

The Directorate establishes and maintains contact between Norwegian and international cultural heritage institutions. The Directorate represents Norwegian authorities in relevant international laws and conventions regarding the protection of cultural heritage.

Projects with European countries take place both bilaterally and through organisations such as the European Council, the Council of the Baltic Sea States and the Nordic Council of Ministers. The Directorate also cooperates with the Norwegian Ministry of Foreign Affairs and Norwegian embassies on the protection of European cultural heritage through the EEA and Norway Grants. This helps strengthen reciprocal contact with the newest EU member states.

Through the EEA and Norway Grants, The Directorate promotes targeted efforts in the field of cultural heritage in the new-

est EU member states. The Directorate acts as an expert adviser to the Ministry of Foreign Affairs, maintains close contact with other European cultural heritage institutions and participates in cooperation projects that are funded through the EEA and Norway Grants.

Norway has growing interests in the Ukraine, Georgia and Uzbekistan and the Directorate is involved in partnership projects in these countries. Current projects also involve partnerships with heritage institutions in Mozambique and Uganda.

For further information, please see our website: www.riksantikvaren.no



“
Projects with European countries take place both bilaterally and through organisations such as the European Council, the Council of the Baltic Sea States and the Nordic Council of Ministers”



The Polish Maritime Museum in Gdańsk

Robert Domżał

Manager of the Department of Shipbuilding History



THE POLISH
MARITIME
MUSEUM
IN GDAŃSK

The Polish Maritime Museum in Gdańsk is a unique cultural institution – not only does it collect historical artifacts and disseminate knowledge about the maritime history of Poland, but it is also actively engaged in the protection of maritime cultural heritage. For many years the Polish Maritime Museum has been carrying out conservation work on wooden and metal historical objects originating in an aquatic environment. The work of this thriving institution is supplemented by specialised departments located outside of Gdańsk, e.g. by the Vistula River Museum in Tczew, the Fisheries Museum in Hel and the Vistula Lagoon Museum in Kąty Rybackie. As befits one of the largest maritime museums in Europe, the PMM is in possession of a fleet of historic museum ships, e.g. the “Soldek” was built in 1948 in the Gdańsk Shipyard as the first Polish ocean-going ship during the generation of the so-called coal-ore carriers. Taken out of service, it was handed over to the Polish Maritime Museum and put on exhibition after having undergone restoration in 1985.

Another famous museum ship is the “Dar Pomorza”, often referred to as the “White Frigate”, which has been associated with the city of Gdynia since 1930. It was built in 1909 in the Blohm & Voss Shipyard as a training ship for the German merchant navy. After Germany’s defeat in WWI, the ship was taken over by the French, only to be bought, in 1929, by the

Pomeranian National Fleet Committee for the equivalent of 7000 pounds sterling in public donations. It was to replace the vessel “Lwów”. The frigate was then renamed “Dar Pomorza” (trans. “the Gift of Pomerania”) to commemorate the generosity of the local community. Once out of service, in 1982, it was handed over to the Polish Maritime Museum.

Ever since the 1970s, one of the central activities of the Polish Maritime Museum has been to conduct underwater archaeological research. The core of the collection has been acquired in the course of underwater research and during the exploration of shipwrecks on the bed of the Baltic Sea. The management is also responsible for preparing coordination reports to be decided by the Pomeranian Provincial Conservator of Monuments concerning archaeological research and shipwreck exploration in sea areas along the Pomeranian coast. Underwater archaeologists at the PMM perform archaeological supervision tasks, verify underwater sites and carry out rescue work on the most endangered archaeological sites.

An important part of PMM’s work is its research and publications, for which the Museum has been repeatedly recognised by the Ministry of Culture and National Heritage at the “Sybilla Museum Event of the Year” competition.

This already extensive cultural offer will be further supplemented in 2011 by a new

museum department – the Maritime Culture Centre, which is currently being built in the direct vicinity of the historic crane in the framework of a project entitled PL0243 Redevelopment and expansion of the cultural infrastructure of the Polish Maritime Museum in Gdańsk for the purposes of the Maritime Culture Centre, implemented in partnership with the Stavanger Maritime Museum. The project is being financed by the EEA Financial Mechanism and the Norwegian Financial Mechanism. The Maritime Culture Centre will not only house exhibitions, but it will also have interactive learning stations for children and youth to allow them to expand their knowledge on a broad range of sea-related topics.

The Polish Maritime Museum in Gdańsk is, therefore, a modern cultural institution whose development largely depends on foreign cooperation with partner museums and monument protection centres.



As befits one of the largest maritime museums in Europe, the PMM is in possession of a fleet of historic museum ships”



Problems, recommendations, good practices

Norwegian Legislation on Cultural Heritage

Liv Ramskjær

Arts Council Norway

The Cultural Heritage Act

Norwegian cultural heritage is protected by the Act of 9 June 1978 No. 50 Concerning Cultural Heritage (the Cultural Heritage Act), whose purpose is to protect archaeological monuments and sites as well as cultural environments in all their variety and detail, both as part of Norwegian cultural heritage and identity and as an element of overall environment and resource management.

The Cultural Heritage Act (Kulturminneloven) aims to ensure that future generations will continue to enjoy and benefit from Norway's cultural heritage¹. It is regarded as a national responsibility to safeguard the given resources as scientific source material and as an enduring foundation for the experience of present and future generations as well as for their self-awareness, enjoyment and activities. The intentions of this Act must also be taken into account in any decision taken pursuant to other Acts that may affect cultural heritage. The term "archaeological and historical monuments and sites" is defined in the Act as all traces of human activity in our physical environment, including places associated with historical events, beliefs and tradition. The term "cultural environment" is defined as any area where a monument or site forms a part of a larger entity or context.

The six chapters of the Cultural Heritage Act consist of 29 sections specifying the following main subjects: Purpose and Scope, Monuments and Sites which are Automatically Protected by Law, Ship Finds and Protection of Vessels, Individual Protection Order and Special Provisions.

Prohibition on Exports

The Ministry of the Environment is responsible for the Cultural Heritage Act, except for Chapter VI, section 23 – "Prohibition

on exports", and subsections 23a-f, for which the Ministry of Culture is responsible². The purpose of the legislation concerning the export and import of cultural objects (in section 23 and subsections 23a-f of the Cultural Heritage Act) is to protect the movable and immovable cultural objects that form an important part of Norway's cultural heritage and history. The aim is also to ensure the return and tracing of the cultural objects, judicial procedures, compensation and right of ownership. The Regulations Relating to Prohibition against the Export and Import of Cultural Objects, issued by the Ministry of Culture, are intended to safeguard cultural property against illegal export and import. They also ensure that documentation and information are provided on the cultural objects for which export permits are granted.

Archaeological and fixed objects of cultural heritage and all standing structures known to have originated prior to

1649 are automatically protected under the Cultural Heritage Act. This is quite a well-known fact among the general public in Norway, but less known is the fact that one needs an export licence for a wide range of paintings, sculptures and other works of visual art, crafts or prototypes for design products from earlier than 1950. Examples of guidelines for other objects needing an export licence as regards the Regulations Relating to Prohibition against the Export and Import of Cultural Objects are³:

- » Sámi cultural objects from earlier than 1970. For books, leaflets and maps printed in Sámi, the limiting year is 1930. An export permit is required for all Sámi archives or any other elements, irrespective of their age.
- » Motor cars, aircraft and rolling stock or its parts from earlier than 1950, and boats or their parts that are more than 50 years old.

The front of our brochure from the Travel Fair





Import of a cultural object into Norway requires a valid export permit from the exporting country if the country of origin requires it. Otherwise, it is regarded as an illicit export”

- » Buildings or their parts, ethnographic materials, archival items, manuscripts, seals and signets, furniture and other domestic items, costumes, weapons and the like, of artistic or cultural significance or that are associated with historic persons from earlier than 1900.
- » Norwegian coins dating from before 1537, and coins, banknotes, medals and orders of more recent date, where these are of national significance. There is a summary of such coins in the regulations.

It is very important to know that these guidelines can be overruled if the specific cultural object is related to prominent or important historic persons, activities and events of significance to Norwegian art, culture and history of whatever age. If someone wants to export such objects, the application might be rejected even if the object is younger than the general rules of the Regulations.

The legislation of the Norwegian Cultural Heritage Act is based on both the UNESCO 1970 and the UNIDROIT Conventions. However, the ideas of these Conventions are even further developed in the national legislation, as several of the time limits for different materials are substantially stricter than those that Article 1 in the 1970 Convention suggests.

Divided responsibilities for Export Licences

The Norwegian Ministry of Culture has appointed twelve institutions that may issue export permits. Nine of these institutions are museums with the responsibility of issuing export licences for different groups of cultural objects:

1. The Museum of Cultural History, University of Oslo is the administrative institution for archaeological and ethnographic materials, Pre-Reformation (1537) artifacts, coins and banknotes.

2. The Norwegian Museum of Cultural History (at Bygdøy in Oslo) is responsible for folk art, rural antiquities, home craft products, folk costumes, buildings and other materials relating to the Post-Reformation working life and lifestyles.
3. The National Museum of Art, Architecture and Design is responsible for applications for paintings, drawings, sculptures, original art prints and other forms of visual art, as well as crafts, design, furniture and other domestic items.
4. The Norwegian Armed Forces Museum is responsible for military cultural objects, weapons and aircraft.
5. The Norwegian Maritime Museum is the administrative institution for maritime objects.
6. The Norwegian Museum of Science and Technology is responsible for motor vehicles and other technical objects.
7. Preus Museum is responsible for photography, cameras and other photographic equipment.
8. Ringve, a section of the Museums in Sør-Trøndelag, is the administrative institution for musical instruments and other music-historical objects.
9. RiddoDuottarMuseat is responsible for Sámi art and other Sámi cultural objects.

In some cases, and for some types of artifacts, there might be a possible overlap or uncertainty as to who should issue the export permit. The different administrative institutions cooperate when in doubt or in borderline cases, might even consult other institutions competent in a given topic, or they might forward the applications to the right institution – these procedures are laid down in the regulations as well.

Besides the museums, the following institutions are responsible for issuing export licences for these groups of cultural objects:

1. The National Library of Norway issues export permits for books, leaflets/posters, maps, manuscripts, and sound and film archives.
2. The National Archives of Norway is responsible for archival material, seals and signets.
3. The Directorate for Cultural Heritage, which is the Norwegian counterpart of the National Heritage Board of Poland, is responsible for boats.

An application including the requested number of photographs of the object in question must be sent well in advance to the relevant institution, which, given that the decision is positive, will issue an export permit. This permit must accompany the object as it crosses the border.

Import of Cultural Objects

The Norwegian ratification of the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property requested changes in several Norwegian laws and regulations, among which was The Cultural Heritage Act and the Regulations Relating to the Return of Stolen and Unlawfully Removed Cultural Objects. As a consequence, the import of a cultural object into Norway requires a valid export permit from the exporting country if the country of origin requires it. Otherwise, it is regarded as an illicit export. Objects without legal certificates or those not returned within the time-limit for a temporary export licence are regarded as objects of illicit import. The persons

importing the cultural object are obliged to make sure that the cultural objects are accompanied by valid export permits if the regulations of the country of origin request this. Export licences are to be presented during customs processing.

Statistics on applications for export permits during the years 2004-2010 show a distinct increase in the number of applications, with 2006 as the peak year, followed by a three-year decrease and another rise in 2010. The first peak is believed to correspond with Norwegian Customs' target control checks for cultural objects in 2004. The decrease, most visible in 2008 and 2009, is probably related to the international financial crisis, and public awareness campaigns might be one of the reasons for the increase in 2010, with a recovery from the effects of the financial crisis as the other factor.

Rejections for export licences are low, and a recent update of the figures shows a total of 15 rejections in the last six years. This low number of rejected export licences underscores the fact that the administrative institutions want to exchange objects and information about Norwegian cultural heritage with other countries, and that the various administrative institutions look upon the export permits as a means of fruitful cultural dissemination of Norwegian culture.

Among the popular export articles are lithographs by Edvard Munch, furniture, products by well-known goldsmiths and a wide selection of rural antiquities, musical instruments, automobiles and weapons. There are several examples of export permit rejections which have caused a heated public debate, as in the case of permitting Munch's painting, "Fertility", to be exported, and rejecting the export of a wall cabinet by Olav Hansson from 1834.

Penalties

Anyone who deliberately or through negligence contravenes the export regulations may face a fine or imprisonment of up to one year. Under aggravating circumstances, imprisonment of up to two years may apply. Aiding and abetting illegal export, or attempted illegal export, is punishable in the same way (cf. Cultural Heritage Act § 27 and the Customs Act Chapter 16).

Appeals – Arts Council Norway

Besides the 12 administrative institutions, Arts Council Norway also fulfills administrative tasks connected with the 1970 Convention and Section 23 of the Cultural Heritage Act. Arts Council Norway is the appeals body for most cases involving prohibition against the export of cul-

tural objects. The exceptions are cases decided by the Directorate for Cultural Heritage, where the Ministry of the Environment is the appeals body, as well as cases concerning Sámi cultural property, where the Sámediggi (Sámi Parliament) is the appeals body for licences rejected by RiddoDuattarMuseat. In addition, it is an important task of Arts Council Norway to provide widespread information regarding the laws and regulations and to advise the general public, administrative institutions, customs authorities and the police.

Control

The Customs and Excise Authorities are responsible for ensuring that cultural objects are not exported from or imported into Norway in contravention of the Regulations Relating to Prohibition against the Export and Import of Cultural Objects⁴. Norwegian Customs are in charge of controlling the export and import of prohibited cultural objects. As the regulations concerning the import of cultural objects are relatively new, experience dealing with this topic has been limited. Import control is challenging in several ways – both regarding competence in worldwide cultural heritage laws in force and especially in extensive knowledge about the wide range of cultural heritage objects coming from different countries.

Applications for export licence 2004-2010	2004	2005	2006	2007	2008	2009	2010
National Museum for Art, Architecture and Design	292	455	707	694	527	428	413
Norwegian Museum of Cultural History (Folkemuseet)	30	107	84	55	15	38	129
Norwegian Museum of Science and Technology		6	6	7	39	12	6
National Library of Norway				100	76	27	7
Norwegian Armed Forces Museum	13	24	20	17	17	17	20
Ringve, A Section of the Museums in Sør-Trøndelag	8	3	4	1	2	2	1
Directorate for Cultural Heritage	4	2	7	4	3	3	5
Norwegian Maritime Museum		1	2	1	1		2
Museum of Cultural History, University of Oslo		16	4	2		7	3
Preus Museum			1	3			
RiddoDuattarMuseat							
National Archive of Norway							1
Total number of applications	347	614	835	884	680	534	587
Rejected applications		1	1	3	4	2	4

Source: Arts Council Norway

Experiences and Challenges

Due to a lack of updated register codes, the Norwegian police authorities have not yet established reliable statistics regarding the scale of the illicit export or import of cultural property. Arts Council Norway, the police and customs authorities assume that there is a certain amount of illicit export and import taking place due to a general lack of knowledge about both Norwegian and other countries' laws and regulations on the export and import of cultural objects.

Norwegian Customs stopped five transports of cultural objects in 2010, with whom different administrative institutions and Arts Council Norway cooperated in these cases. Arts Council Norway has lately provided increased assistance to customs officers in finding the laws and regulations of the countries of origin in the UNESCO database for national legislation and regulations that apply in different countries after the confiscation of cultural objects. Assisting Norwegian Customs in this work and in making inquiries to the authorities when needed will require extensive experience in the practical functioning of the conventions and cooperation with the other states supporting them.

The experience so far has been that it is often time-consuming and complicated to explore the more specific details of the laws and regulations and to obtain assistance from embassies of the countries of origin. The experience of Arts Council Norway, Norwegian Customs and the

police has been that there are still challenges to be met before the UNESCO database becomes a fully operational tool for sharing information on national laws and regulations. Language barriers might, for instance, appear in the search for information in the UNESCO database or in searches in the databases or lists of national treasures/prioritised cultural objects, as some laws and databases are available only in the original languages.

There is a growing need for the extensive competence of customs officers in areas such as art history, archaeology, ethnography and other relevant topics concerning museums and international cultural heritage law. The Norwegian administrative institutions for issuing export permits give valuable support to Norwegian Customs when necessary. Unfortunately, not all needed competence is represented inside Norway, as it might be a challenge to reach embassies and ministries of culture for information on laws and regulations of specific confiscated cultural objects. Based on the experience of the customs authorities, police and Arts Council Norway, there are still challenges to be met in this field in the years to come. To face these challenges, the Ministry of Justice and the police have established a national group of experts for the purpose of preventing illegal trade and protecting cultural heritage. The Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (kokrim) leads this group with representation from: the Ministry of Culture, Arts Council Norway,

Norwegian Customs, the Directorate for Cultural Heritage and the Church of Norway Employers' and Stakeholders Association.

Public Awareness

Raised public awareness about issues concerning the illegal export and import of art and other cultural objects is still needed. Arts Council Norway is obligated to inform the general public about the rules and regulations in force and to guide the general public, administrative institutions, customs authorities and police when needed. Leaflets, brochures and information campaigns are supplementary tools in this work.

For the past four years Arts Council Norway, in cooperation with ICOM Norway, Blue Shield Norway, the Norwegian UNESCO Commission, the Directorate for Cultural heritage, Norwegian Customs and the police have been present at the Norwegian Travel Fair to inform the general public about the laws and regulations in force. The experience so far has been that either many people are not aware of the rules and regulations or that some people actually do not want to be. Both inside the travel business, among travellers, the general public, companies and different institutions and organisations working abroad, there is still a need for more information concerning this topic. Musicians represent another important target group where raised awareness is needed, as they travel widely with valuable instruments and often buy instruments internationally.

ENDNOTES

1. Act of 9 June 1978 No. 50 Concerning the Cultural Heritage, Chapter 1, §1 and §2. www.regjeringen.no/en/doc/Laws/Acts/Cultural-Heritage-Act.html?id=173106
2. For an updated Norwegian text on the regulations, see <http://www.lovdato.no/for/sf/ku-xu-20070101-0001.html>. There is no updated English translation.
3. See <http://www.lovdato.no/for/sf/ku-xu-20070101-0001.html> for a full overview with a specified list of Norwegian coins, medals, banknotes, etc. from the post-1537 period which need an export licence.
4. Act on Customs Duties and Movement of Goods (Customs Act) of 21 December 2007 No. 119, §1-§5.

New rules on exporting historical objects abroad according to the Polish law

Prof. Wojciech Kowalski PhD

University of Silesia

Preliminary remarks

Practically throughout the entire post-war period, there was a general rule that the export of cultural property abroad was prohibited, the exception being the possibility to obtain permission to export objects created after the war¹. Another evident exception was obtaining permission for the temporary rendering of an object to be accessible for an exhibition abroad.

Due to the amendment of the Act on the Protection of Monuments and the Guardianship of Monuments², introduced last year³, the previous principle has in a way become reversed. A general principle allowing the free export of cultural property abroad was introduced which at the same time controlled the export of property belonging to certain categories, depending on the importance and legal status of the given group of objects. Individual categories have been listed in the Act, and checks are carried out through the issuing of various types of permissions for the export of a given object depending on its category. The Act also distinguishes a group of historical objects whose permanent export is not allowed at all.

As can be seen in this short summary of the new regulations, the purpose of amending the law was a clearly visible liberalisation of export limitations within the discussed scope, reserved at present for particularly precious and valuable historical objects⁴.

In an attempt to systematize the aforementioned categories and their relevant permissions, it is necessary first to differentiate between permanent export and temporary export.

In the case of permanent export, this means the total loss of a given object for the national cultural heritage in Poland. Thus, the control of such export is the most rigorous and takes place as regards three categories of historical objects:

- » historical objects without any export control,
- » historical objects that require an export licence,
- » historical objects prohibited from export.

The temporary export of a historical object is a completely different matter, and is generally supported by the state as a form of Poland's participation in the international cultural exchange. Therefore, export control is only required for a given institution to obtain the appropriate licence. According to the Act, a differentiation is required between:

- » a single licence for export,
- » a specific open licence for export,
- » a general open licence for export.

Permanent export

Historical objects without any export control.

According to art. 59 of the Act⁵, the following historical objects may be exported without limitation, therefore, such export does not require any type of licence:

- » historical objects imported from a non-EU country with an interim clearance procedure or an inward processing procedure, according to Customs Law (art. 59, item 1, section 2),
- » historical objects imported from a non-EU country with a marketing authorisation procedure with exemption from import duties if the export of such historical objects takes place within





5 years from the date of granting the marketing authorisation (art. 59, item 1, section 3),

- » historical objects from an EU country imported for a period of maximum 3 years if the export of such historical objects takes place within the borders of an EU country (art. 59, item 1, section 4),
- » historical objects imported from abroad by persons with privileges or diplomatic immunities, including historical objects imported for the decoration of diplomatic posts and consular offices (art. 59, item 1, section 5),
- » works of living authors (art. 59, item 1, section 6),
- » historical objects transported through the territory of the Republic of Poland from an EU country to a non-EU country and of the categories A.1-A.15 listed in the appendix to the Council Regulation (EEC) no. 116/2009 from the 18th of December 2008 concerning the export of cultural property (EU Journal of Laws L 39 from the 10th of February 2009) if their value is lower than the financial thresholds listed in section B of this appendix (art. 59, item 1, section 7),
- » historical objects with import confirmation issued by the customs agency or the Border Guard, according to art. 59, item 3, section 4 (art. 59, item 1, section 8).

Moreover, on the basis of the quoted regulation, i.e. art. 59, item 1, section 1, free export also applies to historical objects that are not included in the fifteen historical object categories listed in the earlier regulation of the Act, namely in art. 51, item 1. The

export of historical objects indicated in these categories requires the obtaining of a licence, therefore, they are described in detail in the section concerning this licence below.

It should also be noted that the free export of historical objects undergoes a technical inspection based on checking if the objects being exported are actually allowed for such export, i.e. if the characteristics of a historical object indicate that its export should require a licence, the Border Guard or the customs agency can require the exporting person to present a document confirming the fact that the historical object being exported does not require a licence (art. 59, item 2). Such documents include:

1. an evaluation indicating when the historical object was created, carried out by a cultural institution specializing in the protection of objects, by an expert of the minister responsible for culture and the protection of cultural heritage, an economic entity specialized in trading historical objects in the Republic of Poland or a public administration agency,
2. an evaluation of the historical object performed by a cultural institution specialized in the care of historical objects, an expert of the minister responsible for culture and the protection of cultural heritage, or an economic entity specialized in trading historical objects in the Republic of Poland,
3. an invoice with data allowing for identification of an object, issued by an economic entity specialized in trading historical objects in the Republic of Poland,

4. a confirmation of the import of a historical object to the Republic of Poland, including a photograph of the historical object issued at the border crossing by the customs agency, or, if there is none, by the Border Guard; the confirmation is issued only in cases when the enclosed document allowing for an unequivocal identification of the historical object and its age point to the fact that it belongs to the category of historical objects as described in art. 51, item 1,
5. transportation insurance of the historical object from abroad to the Republic of Poland,
6. a licence for exporting the historical object from another EU country (art. 59, item 3).

Considering the necessity of having these documents standardized, the Minister of Culture and National Heritage defined their specimens in a special regulation⁶.

Finally, when discussing this procedure it should also be added that if a person exporting a historical object does not present any of the indicated documents, or there is a justified reason to believe that that the document is not credible, the Border Guard or the customs agency can hold the exported historical object for the period of time required to establish if the historical object can be exported without a licence (art. 59, item 4).

Historical objects that require an export licence

Historical objects which belong to any of the following categories require a licence for permanent export abroad:

1. archaeological historical objects more than 100 years old that belong to archaeological collections or have been acquired as a result of archaeological excavations, or accidental discoveries,
2. elements which are integral parts of architectural historical objects, interior design, objects, statues, and works of artistic craftsmanship over 100 years old,
3. paintings created in any technique and on any material that are not included in the categories indicated in sections 4 and 5 that are over 50 years old and worth more than PLN 40,000,

4. water-color, gouache and pastel paintings over 50 years old and worth more than PLN 16,000,
5. mosaics not included in the categories indicated in sections 1 and 2, drawings made in any technique and on any material, over 50 years old and worth more than PLN 12,000,
6. original works of graphic art and matrices to reproduce them, original posters over 50 years old and worth more than PLN 16,000,
7. original sculptures, statues or their copies created in the same technique as the originals, not included in the category indicated in section 1, over 50 years old and worth more than PLN 20,000,
8. single photographs, films and their negatives over 50 years old and worth more than PLN 6,000,
9. single manuscripts or manuscripts that belong to collections, over 50 years old and worth more than PLN 4,000,
10. single books or books that belong to collections, over 100 years old and worth more than PLN 6,000,
11. single printed maps and music scores over 150 years old and worth more than PLN 6,000,
12. collections and objects from zoological, botanic, mineral or anatomy collections, worth more than PLN 16,000,
13. collections of historical value, paleontological, ethnographic or numismatic collections, worth more than PLN 16,000,
14. means of transportation [vehicles] over 50 years old and worth more than PLN 32,000,
15. other categories of historical objects not listed in sections 1-14, including historical objects over 50 years old and worth more than PLN 16,000 (art. 51, item 1).

The discussed permissions are issued by the Minister of Culture and National Heritage⁷, with the possibility of being denied such permission if a given historical object is of a particular value to cultural heritage. Applications for licences are filed through the Provincial Conservator of Monuments, and if obtained, can be used within 12 months of issue of the licence (art. 52, item 1).

Historical objects prohibited from export

The following historical objects are prohibited from permanent export abroad on the basis of art. 51, item 4:

1. entered into the register,
2. that belong to public collections owned by the State Treasury, local government units and other organisational units of the public finance sector,
3. that are in museum inventories⁸ or in the resources of the national library⁹.

Export of historical objects for a definite time

As explained above, the temporary export of historical objects abroad is supported by the state as a form of Poland's participation in the international cultural exchange. Apart from the obvious unfortunate incidents, the national cultural heritage of Poland thus does not lose any objects that are in the country, therefore, such export is subject only to formal control in the form of a licence typically issued for temporary export which differs depending on the type of export. Practically all of the historical objects discussed above – that require licences and are completely prohibited from permanent export – can be exported temporarily. The requirement for issuing the licence is mostly connected with the appropriate condition of a given historical object and a guarantee granted by a person or organi-

sational unit which is the owner of the historical object that it will not be destroyed or damaged and that it will be transported back to the country before the licence's expiry date (art. 51, item 2). As explained above, there can be single licences, specific open licences, and general open licences for the export of given historical objects.

Single licence for temporary export

A single licence for the temporary export of a historical object abroad is issued by the Provincial Conservator of Monuments or by the Director of the National Library, respectively, on application by a natural person or an organisational unit which owns the historical object and is planning a single temporary export of such a historical object abroad for utilitarian or exhibitory purposes or to conduct conservation work. The licence is valid for a maximum of 3 years from the date of issue (art. 53).

Specific open licence

Specific open licence for the temporary export of a historical object abroad is issued by the Provincial Conservator of Monuments or by the Director of the National Library, respectively, if a natural person or the organisational unit that owns the historical object intends to export it abroad many times for utilitarian or exhibitory purposes. This licence is also valid for a maximum of 3 years (art. 54).

“*A general principle allowing the free export of cultural property abroad was introduced which at the same time controlled the export of property belonging to certain categories, depending on the importance and legal status of the given group of objects*”

General open licence

General open licence for the temporary export of historical objects abroad is also issued by the Provincial Conservator of Monuments or by the Director of the National Library, respectively, to museums or other cultural institutions that intend to export abroad parts of their collections or entire collections for exhibitory purposes, i.e. as part of their activities. Such licences are valid for a maximum of 5 years (art. 55, item 1).

As pertains all temporary licences, it should be added that the Provincial Conservator of Monuments or the Director of the National Library, respectively, can withdraw a licence, which usually takes place if the condition of a historical object has deteriorated or new facts or circumstances show that the applicant does not

guarantee the exported historical object will be safe from destruction or damage, or for transporting the object to the country before the expiry of the licence. The customs administration institution is notified about the licence's withdrawal (art. 56).

It should also be noted that within 14 days of using the licence, the institution that issued the licence for export should be notified about the historical object's transport back to the country, and the historical object should be made available for inspection if the institution demands it (art. 57).

At the end of this presentation concerning new rules controlling the export of cultural property, it should also be underlined that the regulations of the European law have been implemented into the Polish law enabling the execution of a return of the property if it has been exported

with an infringement of the discussed regulations. This particularly concerns the Directive on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State, whose regulations, after appropriate amendments, have been included into the discussed Act on the Protection of Monuments and the Guardianship of Monuments as a separate chapter, Chapter 6 of the Act, entitled: "Restitution of the Monuments Illegally Exported from the Territory of the Member State¹⁰ of the European Union". However, it should be underlined that Poland is not yet a signatory of the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects from 1995¹¹, a convention which enables the recovery of cultural goods unlawfully removed from the territory of the European Union.

ENDNOTES

1. See e.g. the Act from the 15th of February 1962 on the Protection of Cultural Objects and Museums. Journal of Laws 1962, no. 10, item 48. Explanation and commentary: S. Łazarowicz, W. Sieroszewski: Przepisy prawne dotyczące ochrony dóbr kultury oraz muzeów. Biblioteka Muzealnictwa i Ochrony Zabytków. B series, Vol. XXVIII, Warszawa, 1970.
2. The Act from the 23rd of July 2003 on the Protection of Monuments and the Guardianship of Monuments, Journal of Laws from 2003, no. 162, item 1568.
3. The Act from the 18th of March 2010 on the amendment of the Act on the Protection of Monuments and the Guardianship of Monuments, Journal of Laws from 2010, no. 75, item 474.
4. See, for example, the article entitled: Będzie można łatwiej wywozić zabytki za granicę, *Gazeta Prawna*, 7th April 2009.
5. All references to regulations pertain to the amended Act on the Protection of Monuments and the Guardianship of Monuments.
6. The regulation from the 18th of April 2011 on the export of historical objects abroad, Journal of Laws from 2011, no. 89, item 510.
7. In reference to library materials, the licences are issued by the Director of the National Library (art. 55).
8. See the Act from the 21st of November 1996 on Museums, Dz. U. from 1997, no. 5, item 24.
9. See the Act from the 27th of April 1997 on Libraries, Dz. U. from 1997, no. 85, item 539.
10. Council Directive 93/7/EEC from the 15th of March 1993 on the Return of Cultural Objects Unlawfully Removed from the Territory of a Member State. Official Journal of the European Communities No. L 74/74. See a comprehensive discussion of the Directive, J. De Ceuster: Les règles communautaires en matière de restitution de biens culturels ayant quitté illicitement le territoire d'un Etat membre Analyse de la directive 93/7/CEE du 15 mars 1993. *Revue du Marché Unique Européen* 1993, Vol. 2, pp. 34 et seq. In Polish literature, see e.g. M. Niedźwiedz: Obrót dobrami kultury w Unii Europejskiej. *ZN UJ. Prace z Wynalazczości i Ochrony Własności Intelektualnej*, no. 73, Kraków 2000, and for the broader background of exporting historical objects, see W. Kowalski: Nabywanie własności dzieła sztuki od nieuprawnionego. *Zakamycze* 2004, pp. 199 et seq.
11. The Convention on Stolen or Illegally Exported Cultural Objects. Text of the document with a commentary, L. V. Prott: *Commentary on the UNIDROIT Convention. Leicester, Institute of Art and Law, 1997*. Polish translation of the Convention, W. Kowalski: Konwencja UNIDROIT o skradzionych lub nielegalnie wywiezionych dobrach kultury. *Polski Instytut Spraw Międzynarodowych. Studia i Materiały*, no. 102, Warszawa 1996. The discussion of the concept of the Convention, id. *Nabywanie...*, pp. 207 et seq.

The 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. History, connected conventions and Norwegian ratification and practice

Liv Ramskjær

Arts Council Norway

History of the 1970 Convention

In March 2011 UNESCO celebrated the 40th anniversary of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereafter the 1970 Convention), focusing on the history and function of the Convention. After the United Nations General Assembly adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960, the newly independent States were anxious to recover important items from their cultural heritage. Many of these were to be found in the museums of the former colonizing States. They were also concerned about the continuing destruction of cultural heritage sites by looters at a time when the newly independent States had relatively few resources to control it. Even if these two issues were often debated, the major market and collecting States were reluctant to return cultural objects received in the past and now in their museums and private collections. They were, however prepared to do something to stop the current losses experienced by mainly developing States. Such discussions are still ongoing, and at the 17th session of the “Intergovernmental Committee for promoting the Return of Cultural Property to its countries of origin or its restitution in case of illicit ap-

propriation” at the UNESCO Headquarters 30 June to 1 July 2011, the status for the Parthenon (Elgin) Marbles was one of the reported cases¹.

In April 1964 UNESCO appointed a committee of experts to draft the recommendations for a convention on illicit traffic. In November the General Conference adopted the Recommendation on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property. This Recommendation specified measures that should enable States to better protect their movable cultural heritage. Four years later the General Conference of UNESCO adopted a Resolution authorizing the convening of

a committee to draft a Convention. After circulating the Draft for comments by Member States, it was revised and sent to a Special Committee of Governmental Experts which met in April 1970 to prepare a final draft for submission to the General Conference later that year. It has to be said that many of the States which might be described as “holding States” because of their large public and private collections of art and artefacts, or “art market States” because the majority of commercial trade in cultural objects took place in those countries, were not enthusiastic to have such an international agreement. They were reluctant to undertake controls within their jurisdictions for heritage items of other countries².





In his summary of the strengths and weaknesses of the convention at the 40th anniversary, Lyndel V. Prott underscored the effect on the public attitude on this issue. "That is evidenced by the changing flavor of the debate in the media and in academic writings. It is also illustrated by the practice of museums and similar institutions which have in many cases consciously adopted the date of the Convention, 1970, as a key marker for enquiries into provenance³".

A third significant achievement has been the passage of national legislation in many countries to bring their practice into conformity with the Convention. United States legislation, the Convention on Cultural Property Implementation Act 1983, is well-known, but detailed legislation has also been passed in a number of other countries with substantial trading interests such as Japan, the Netherlands, Switzerland, and the United Kingdom. These legislations are listed in the UNESCO database for National Legislations. Currently the database includes 2300 national cultural heritage laws from 180 countries.⁴

The convention has however, increased the attention on the topic, and influenced and developed other conventions on specialized areas of heritage protections; such as the UNESCO Convention on the Pro-

tection of the Underwater Cultural Heritage 2001, the UNIDROIT Convention, as well as the European Regulation and Directive 1993 on the movement of cultural heritage. Its importance has also been enhanced by the adoption of the UNESCO Convention on the Safeguarding of the Intangible Cultural Heritage 2003, as it ensures protection of valued artefacts used in traditional rituals, music, ceremonies and so on. The adoption of these legal instruments and their subsequent implementation has familiarized cultural experts and traders in cultural objects with the necessity of regulating this area of trade so that it does not result in the destruction or damage of any aspect of cultural heritage. This is supported by the International Code of ethics for Dealers in Cultural Property adopted in 1999. The International Council of Museums developed the ICOM Code of Ethics based on the principles of the 1970 Convention in 1978 and revised it in 2006, who has influenced national associations of museums, anthropologists, archaeologists.

The Norwegian ratification

When Norway ratified, and put into effect, the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereafter the 1970 Convention) on February 16th 2007 - it ended many years of discussions and alterations of several different laws affected by the content of the 1970 Convention. In a way, the Norwegian process illustrates the earlier mentioned challenges in adapting the Convention to national legislation. The discussions regarding Norwegian ratification started in the early days of the 1970 Convention as the principles behind it were generally approved by the Norwegian parliament. For several years Norway's position in the international illegal market for cultural objects was regarded as limited. The benefits of ratification seemed to be modest/small compared to the work involved in establishing wide-ranging administrative procedures and altering all the necessary laws and regulations⁵.

When the Ministry of Foreign Affairs in June 2004 (St.prp.nr 70(2003-2004) - June 4th 2004) gave advice on the rati-

fication of the 1970 Convention this picture had changed. Several alterations in laws and regulations had occurred. The UNIDROIT 1995 Convention was ratified in 2001 (with entry into force from 2002) and the "Regulations relating to the return of stolen and unlawfully removed cultural objects", laid down by the Ministry of Culture on October 4th 2001 and entered into force from March 2002 followed the ratification. In addition several EU Commission directives affected this development⁶. As a consequence of Norway's adhesion to the UNIDROIT Convention necessary amendments were made of the Cultural Heritage Act (of June 9th 1978 No. 50 § 23) on return of cultural heritage objects and in the Prescription Act (LOV-1966-12-09 Hevdslova) and the Act relating to Good Faith Acquisition of Chattels (Ot.prp. 75(1999-2000)).

Who has ratified the 1970 Convention and UNIDROIT?

In 2011 there are still only 120 countries that have approved the 1970 Convention, while the World Heritage Convention 1972 have 187 States Parties and the Convention for the Safeguarding of the Intangible Cultural Heritage 2003 has already acquired 134 State Parties. This underscores the challenging implications of the convention, even if there have been substantial changes in attitude.

Among the earliest States to ratify were Bulgaria and Ecuador in 1971, Cambodia, Cameroon, the Central African Republic, Kuwait, Mexico, Niger and Nigeria in 1972, and Argentina, Brazil, the Dominican Republic, Iraq, Panama and Libyan Arab Jamahiriya 1973. Poland was also among the earlier Nations to ratify the 1970 Convention when they ratified in 1974 together with Algeria, the Democratic Republic of the Congo and Jordan. Italy ratified in 1978, Greece in 1981, France in 1997 and Germany in 2007. Among the Scandinavian countries Finland started out in 1999 followed by Denmark and Sweden in 2003, Iceland in 2004. This makes Norway one of the latecomers. However, several states, for example Belgium in 2009 and Equatorial Guinea in 2010, have ratified since then. The total number of States approving the Conven-

tion has reached 120. Not all of these have fully ratified the convention. Countries like the United States of America, Canada, the United Kingdom of Great Britain and Northern Ireland, Afghanistan, the Netherlands, Iraq and Egypt are among the countries having accepted the Convention.

The UNIDROIT Convention on stolen or illegally exported cultural objects

On the other hand, when ratifying the UNIDROIT 1995 Convention in 2001, Norway was a pioneer both compared to the other Scandinavian countries and Poland. Denmark's recent ratification from February 2011 will enter into force in August. Sweden ratified the convention in late June 2011, and the Convention will be put into force in December. The other countries are still to follow. With 32 contracting states there is a substantial potential for additional ratification. Among those who still has not ratified are; the United States of America, Canada, the United Kingdom of Great Britain and Northern Ireland, Egypt, Iraq and Iceland.

The importance of increased ratification of the UNIDROIT, or 1995 Convention, is to strengthen some weaknesses in the 1970 Convention due to unclear formulations in some of the drafting or difficulties in making compromises in the final drafting of the text. The issue of time limitations to claims was one of these. There was a concerted effort to try to put in such a limitation but it was defeated. The other major problem is the issue of "good faith" acquisition and mandatory compensation, which is mentioned in Article 7(b) (i) of the Convention – a provision which has been widely criticized as inadequate⁷. The mentioned weakness of slow participation of many countries is a challenge as

well. Several countries, as in the example of Norway, have to solve complex issues regarding need of changes to national laws.

Increased challenges in illicit trade in cultural objects

Increased mobility and globalisation makes illicit trade in cultural objects an increasing problem, especially regarding countries at war and crisis as we have seen examples on in the Middle East in the spring of 2011. Irreplaceable cultural objects more often disappear from their country of origin for sale on the international illegal market than when the 1970 Convention was established, stated the Norwegian Ministry of foreign Affairs in 2004. Increased international demand for cultural objects threatens first and foremost third world countries which lose an increasing amount of their cultural heritage. Interpol stated some years ago that the international illegal market for cultural objects was as large as narcotics. Examples of illegally excavated archaeological objects being sold for enormous sums underlines the potential for highly profitable business in selling cultural objects.

Increased awareness is visible in international society on the unethical sides of important cultural objects being exported and vulnerable countries suffering losses. The need for increased and improved international co-operation in heritage protection is thus an important goal. As few countries have an effective export control, the import control of the customs represents an important additional factor in the fight against heritage crime. Seizures of important cultural objects illegally exported represent a potential for return of cultural property. There are several examples internationally regarding a voluntary return of objects being

seized by customs and several of these is returned without a formal process linked to the conventions. In many ways these cases are managed more smoothly than examples of requested return through the formal and legal channels.

One of the long lasting cases who have been discussed at UNESCO is the case of Boğazköy Sphinx which was excavated at Boğazköy in Turkey and is currently at the Berlin Museum. The case was first presented to the Committee in 1987 and led to the adoption of a new recommendation (Recommendation No.2) which invites both Parties to hold comprehensive bilateral negotiations as soon as possible with a view to bringing this issue to a mutually acceptable solution. After recent meetings, this case near closure. A memorandum of understanding is signed, ensuring that the Boğazköy Sphinx will be returned to Turkey before 28 November 2011, and that technical experts will meet in late May to begin work on the technical aspects of the relocation of the Sphinx⁸.

So far there have been very few cases involving the return or restitution of illicitly exported cultural property from Norway. Therefore there is limited experience in Norway in this field. The main rule on prohibiting import of cultural objects, unless they are followed by valid export permits from the export country, was new in Norway in 2007 after the ratification and a change in the Cultural Heritage Act. The regulations were last altered in 2009, but Norwegian legislation provides for the return of illicitly imported cultural property.

The UNESCO 1970 Convention on Illicit Traffic forms the base for most national laws. Each country determines which objects are invaluable for their particular national cultural heritage, and many make official lists or databases of objects classified as important cultural property.



Increased international demand for cultural objects threatens first and foremost third world countries which lose an increasing amount of their cultural heritage"

In spite of the pattern emerging from the 1970 Convention, the rules and age limits vary extensively from country to country. Several countries experience challenges in cases of return or restitution because of lack of national listing of cultural property. Especially vulnerable are unexcavated archaeological sites. Norway has so far chosen not to develop national lists of cultural property which exceed the inventories of the museums.

In March 2011 Norway sent the first periodical report on the application of

the 1970 Convention to UNESCO⁹. The report emphasizes the fact that there is still work to be done. No special unit has been established in order to prevent and combat trafficking and ensure international cooperation for the protection of cultural heritage. However, the Ministry of Justice and the Police have established a national expert group for the purpose of preventing illegal trade and protecting cultural heritage. The Norwegian National Authority for Investigation and Prosecution of Economic and Environ-

mental Crime (Økokrim) is the central unit for the investigation and prosecution of economic and environmental crime – and are the main source of special skills for the police and the prosecuting authorities in their battle against cultural heritage crime. The expert group formalizes an earlier informal network between the Økokrim, Ministry of Culture, Customs, the Directorate for Cultural Heritage and Arts Council Norway in addition to the Church of Norway Employers' and Stakeholders Association.

ENDNOTES

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6. These are; EU Commission Directive 93/7/EØF and Council Directive 96/100/EF.
7. Prott, LV 2011 : "Strengths and Weaknesses of the 1970 Convention: An Evaluation 40 years after its adoption. Background paper", <http://unesdoc.unesco.org/images/0019/001918/191880e.pdf>, p. 4.
8. For further information see; <http://www.unesco.org/new/en/culture/themes/movable-heritage-and-museums/return-of-cultural-property/committees-successful-restitutions/bilateral-agreement-on-the-bogazkoy-sphinx/#c219669>
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Illegal export of cultural heritage after the opening of borders in the Schengen Area

Olgierd Jakubowski

National Institute of Museology and Collections Protection,
PhD student at the Institute of Law Studies of the Polish Academy of Sciences

Introduction

One effective way to prevent crimes against cultural heritage is to control the export of its material elements at state borders. A system of permits and other documents authorising the transfer of a given cultural asset outside the country enables the authorities to determine whether this export would constitute a loss to cultural heritage and to ensure that the object does not constitute an element of criminal activity. Along with the many positive consequences, Poland's accession to the Schengen Area has also brought about certain dangers. One is the increased risk of the illegal export of cultural heritage. The "open borders" have increased the likelihood of undesirable activity taking place on the art market in Schengen member states. Before Poland acceded to the treaty, the national system for protecting cultural heritage against illegal export was largely based on border controls. Now that travellers crossing the internal borders of the Schengen Area are no longer, or only to a small extent, subject to border control, this method has become ineffective. Experts point to the fact that the growing pace of globalisation and integration calls for a new perspective on the dangers of international trade¹. In order to effectively protect cultural heritage against illegal export, we should begin by looking at the existing mechanisms and legal instruments and we should determine to what extent they meet the challenges of the new European reality.

Illegal export of cultural goods as a danger to national heritage

The illegal export of tangible cultural heritage is an issue of international concern. Prices for works of art on international

markets are high and on the rise, and a constant demand for these objects is often satisfied by goods which come from illegal sources. Experts underline that the criminal world sees the art market as a relatively stable, long-term source of illegal income². The literature mentions three main causes which contribute to an increase in this phenomenon:

» the prices of paintings and other works of art are increasing as a result

of their limited supply on international art markets

- » works of art are increasingly more often seen as a good investment, while at the same time providing a means of money-laundering
- » due to liberalised laws and increased movement between individual countries, customs barriers are not effective enough in preventing illegal export³.





There is a risk that this free movement between EU member states will contribute to the legitimisation of stolen goods on the international art market. EU member states issue export permits based on different sets of regulations”

In Europe's current geopolitical and economic situation, these risks act together and contribute to an increase in the phenomenon. As a consequence of illegal export, states cannot exercise effective control over their cultural heritage and are, to all intents and purposes, actually deprived of the opportunity to exhibit their cultural products. The international law seeks to counteract the situation through a number of legal instruments, such as the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted in 1979. However, even when the convention is ratified, its provisions are not always easy to enforce.

The impact of illegal export on the preservation of cultural heritage should be looked at in a broader context. Illegal export can be indirectly linked to other types of crime, e.g. when planning their act, thieves often consider the possibility of taking stolen goods out of the country⁴. This goes hand in hand with other problems, such as the difficulty of locating stolen property outside the country, commissioned theft and the relative ease of trading stolen goods under other legal systems. As is the case with illegal trade in archaeological heritage, the illegal export of cultural property makes it difficult to determine the object's origin at hand, which often hinders the prosecution of crimes against these types of goods⁵. When assessing the impact on cultural heritage, it is also essential to keep in mind the existence of the illegal export of architectural details, which adversely affects many immovable monuments which are regularly destroyed and damaged by those who intend to smuggle and sell their fragments abroad. In recent years Europe has also witnessed the growing phenome-

non of forgeries being exported to be sold in other EU member states – these objects often return to their country of origin with a new, fabricated history. Polish customs authorities have recently been dealing with more and more of such forgeries⁶. In a way, illegal export indirectly contributes to an increased presence of forgeries on the art market and facilitates their legitimisation. It has often been pointed out that penal measures against illegal international trade in cultural property can be seen as a last resort in protecting historical objects⁷. When one bears in mind the impact of illegal export on the increased risk of crime against cultural heritage, it is difficult not to agree with this view.

Legal instruments limiting the illegal export of cultural property in EU legislation

Upon its accession to the European Union, each member state is obliged to adapt its legislation to the legal norms of the community. The Treaty of Rome, which was signed on 25 March 1957 and later renamed the Treaty Establishing the European Community after the Treaty on European Union entered into force on 1 November 1993, includes regulations on protecting cultural heritage. The document stipulates that restrictions and prohibitions can be introduced on transfer, export and transit should such measures be necessary for the protection of national treasures possessing artistic, historic or archaeological value⁸. Based on these regulations, and despite the principle of the free movement of goods, countries are authorised to set restrictions on the transfer of national treasures, also by issuing documents related to the export of cultural goods. Now that

most EU member states have acceded to the Schengen Area, these regulations are even more important because travellers crossing the internal borders of the EU are no longer subject to border control, or are checked only to a limited extent. Therefore, a painting bought in Belgium can be offered for sale in the Czech Republic the next day, and a Polish work of art can be purchased on the Greek art market. There is a risk that this free movement between EU member states will contribute to the legitimisation of stolen goods on the international art market. EU member states issue export permits based on different sets of regulations, i.e. in more liberal countries (such as Belgium or Germany), only objects registered on lists of protected cultural heritage (which include the most precious works of art) are covered by export control; other objects do not require export permits unless they exceed the financial thresholds specified in relevant appendices to EU laws. In other EU countries (such as the Czech Republic, Spain, France, the United Kingdom and Italy), cultural goods are subject to export control based on the criteria of value and age⁹. In practice, the legal differences between the member states, together with limited customs barriers in the Schengen Area, may facilitate the illegal transport of objects from countries with more restrictive cultural heritage protection laws to those with more liberal regulations.

The transfer of cultural goods beyond the EU customs border is regulated by the Council Directive no. 116/2009/EEC of 18 December 2008 on the export of cultural goods¹⁰. The directive regulates the external aspect of the movement of cultural goods, i.e. it applies to cases where the cultural asset is to be transferred out-

side the territory of the Community, and in order for it to be enforceable, customs officers need to be properly trained to handle these tasks on the external borders of the EU. The directive is aimed at the adequate protection of cultural goods which can, in compliance with national legislation, be considered national treasures by individual EU member states. Because its effectiveness is largely predicated upon the efficiency of controls on external borders, it was essential to establish a common category of cultural goods so that customs authorities would not be reduced to relying on different national regulations. And thus, all cultural goods mentioned in the Appendix to the Directive require export permits in order to be taken outside the EU. The Appendix lists 14 categories of cultural goods – some require that the object have a certain value in euros, e.g. means of transportation and sculptures should have a value of 50 000 euros. A permit issued by competent authorities on the territory of a member state is valid across the entire European Union. Another important element of the European system of control over the movement of cultural goods, which is meant to offset the influence of diminished customs control, are the regulations governing the return of cultural goods based on the Council Directive no. 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a member state, adopted on 15 March 1993¹¹. Unfortunately, the directive is not sufficient, i.e. in order to come under its provisions, the cultural goods listed in the Appendix to the Directive must be extremely valuable, at least according to Polish standards (e.g. means of transportation and sculptures – 50 000 euros, paintings – 150 000 euros)¹². It has often been pointed out that the document is valid for countries which, like Poland, have not ratified the UNIDROIT convention as an instrument enabling the return of illegally exported goods¹³. The above regulations restricting the free movement of cultural goods are intended to protect the most precious treasures of European countries. However, high value and age thresholds often limit their practical significance and fail to offset the lack of control on the internal borders of the Schengen Area¹⁴. When searching for systemic solutions to enhance the pro-



tection of cultural heritage in the European Union, it may be advisable to consider the possibility of introducing regulations which would make databases of stolen cultural goods available to regular EU citizens and to establish relevant civil-law consequences. A directive obliging member states to run open registers, restrict the right of the usucaption of stolen cultural goods and respect the registers of other countries could prove effective in preventing trade in stolen cultural goods and, as a consequence, also in their illegal export.

Accession to the Schengen Area and the illegal export of cultural heritage – the Polish experience

Polish legislation requires that cultural goods be granted export permits before they can be taken out of the country¹⁵. A violation of this requirement is punishable by a sentence of up to 5 years in prison and forfeiture of the object concerned¹⁶. Before Poland's accession to the Schengen Area, the national system for protecting movable heritage against illegal export was largely based on customs control. After accession, the number of issued permits authorising the permanent export of monuments has steadily decreased. While 310 permits for 437 objects were issued in 2006, only 88 such permits, for 218 objects, were issued in 2007. In 2008 the number fell to only 32 permits for 50 individual objects and archaeological collec-

tions (consisting of 2297 objects). The year 2009 saw a further decrease – 20 permits for individual objects and one archaeological collection (4088 items). In 2010, as few as 5 permits for a total of 21 items were issued. Does the steady decrease in the number of permits indicate that the citizens of Schengen countries are not taking part in illegal export? Far from it – i

t only goes to show that the current system is based on old principles and no longer functions properly. The reason for this is that travellers are no longer subject to border control on internal borders, but the Polish borders (Polish-German, Polish-Czech, Polish-Slovakian and Polish-Lithuanian) still exist, both in a physical and legal sense. They are still crossed daily, except for the fact that now there are no customs barriers¹⁷. It has been pointed out that recent developments have rendered existing measures ineffective¹⁸. The de facto crisis of the export permit system has served as a springboard for changes in legislation, in which the requirement of monuments fulfilling specified criteria has been limited to value and age or to age only. On 5 June 2010 an amendment to the Act on the Protection of Monuments and the Guardianship of Monuments entered into force. The Act has been designed to adapt Polish regulations governing the export of monuments (historical objects) to the reality of open borders in the Schengen Area. Whether these regulations will adequately protect Polish cultural heritage still remains to be seen.



Conclusion

Any practical and legal measures designed to protect the cultural heritage of EU member states against undesirable acts, such as the illegal export of historical objects, need to address the specific situation of the Schengen Area. Even potentially high penalties can fail to deter criminals if the regulations are not easily enforceable. In the same vein, even if regulations for the return of illegally exported goods do exist, it is still very likely that

once they leave the country, the chances they will be found are slim – if the location of the item is not known, then the relevant procedures cannot be started. Member states should adapt their national heritage protection systems to the specific demands posed by the Schengen Area. Since the regulations relying on customs control at state borders can only have limited relevance, it is necessary to develop new measures to protect cultural heritage in Europe's new reality.

ENDNOTES

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5. Cf. M. Trzciński, *Nielegalny obrót zabytkami archeologicznymi in:] Rynek sztuki aspekty prawne*, edited by W. Kowalski, K. Zalesińska, Warsaw 2011, p. 206
6. A. Skaldawska, *Rola służby Celnej w walce z falsyfikatami*, *Cenne, Bezcenne / Utracone*, Warsaw, 2009, No. 3, p. 36
7. Cf. W. Paczuski, *Czy obowiązujące przepisy są sprawnym narzędziem ścigania przestępstw nielegalnego wywozu i przywozu zabytków* [in:] *Prawnokarna ochrona dziedzictwa kultury*, edited by J. Kaczmarek, Kraków 2006, p. 137.
8. Article 30 (36) of the Treaty of Rome also allows for prohibitions justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals and plants, and the protection of industrial and commercial property.
9. Cf. *Moving Art – A Guide to the Export and Import of Cultural Goods Between Russia and the European Union*, Delegation of the European Commission to Russia, Moscow, 2006, as well as: D. Trzeszczkowska, *Regulacje prawne wywozu dóbr kultury w prawie niemieckim*, *Prawo Europejskie w Praktyce*, no. 7/8 2010, pp. 106-109 and R. Nowakowski, P. Sabatier, *Przemysł dzieł sztuki we Francji z punktu widzenia służb celnych* [in:] *Międzynarodowa Współpraca służb Policyjnych Granicznych i Celnych w Zwalczaniu Przestępczości Przeciwko Zabytkom*, edited by M. Karpowicz, P. Ogrodzki, Szczycno 2005, pp. 338-342.
10. Council Directive no. 116/2009/EEC of 18 December 2008 on the export of cultural goods, OJ L39, 10.02.2009
11. Council Directive no. 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a member state, OJ L 74, 27.3.1993.
12. Public collections and church property do not need to fulfill the financial thresholds mentioned in the Appendix.
13. P. Stec, *Zwrot dóbr kultury wyprawdzonych niezgodnie z prawem z terytorium UE*, *Prawo Europejskie w Praktyce*, no.7/8 2010, p. 101.
14. An analysis of the report on the implementation of the Council Directive no. 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a member state issued on 30 July 2009 (KOM 2009 408 final version) reveals that there have been few instances of prosecution under this act. The argument that this might in fact attest to the effectiveness of measures taken in the framework of administrative cooperation is unconvincing.
15. Article 3.1 of the Act on the Protection of Monuments and the Guardianship of Monuments, adopted on 23 July 2003, defines a monument as "real estate or a movable object, their parts or elements, being the work of a human being, or connected with their activity, and constituting a testimony of the past epoch or event, the preservation of which is in the social interest because of historical, artistic or scientific value". Article 6 makes a further distinction between movable and immovable monuments and lists the categories of items covered by protection laws.
16. Article 109 of the Act on the Protection of Monuments and the Guardianship of Monuments makes it clear that only unauthorised export is subject to prosecution: "Any person who exports a monument without the permit granted, or after exporting it abroad does not return it to the country in the period of the permit validity, shall be imprisoned for a period of 3 months to 5 years".
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Applications for export of cultural heritage objects – practice at the Norwegian Folk Museum

Jan Romsaas

Art historian, Norwegian Museum of Cultural History, (Norsk Folkemuseum)

The Norwegian Folk Museum is one of several decision-making authorities which process applications for the export of cultural artefacts from Norway, and is mainly responsible for applications related to folk art, agricultural artefacts, crafts, costumes, buildings and other cultural objects connected to working life and way of life after the Reformation (1537).

Not infrequently, the applicant will be in doubt as to which institution's decision is correct, as the fields can overlap each other. For certain items that come under the responsibility of Norwegian museums, the right institution may well be the National Museum of Art, Architecture and Design, and in other cases it may be the Norwegian Technical Museum, the Armed Forces Museum or the Norwegian Maritime Museum. In such cases, the application will normally be sent for processing to the right institution, but if circumstances require it, or if a smoother processing of the application could take place, contact between the various institutions is so close that the process may well be performed at the Norwegian Folk Museum in consultation with the decision-making institution. A typical example of the latter is when an application includes several items, some of which fall under a second decision-making institution. The Norwegian Folk Museum holds large collections of Sami cultural artefacts. Here, however, it is the RiddoDuattarMuseat (The Sami Collections) which is the decision-making institution, and in cases where we receive requests for export of Sami objects for processing, we will pass the application to them.

In recent years there have been discussions regarding the criteria to be applied to determine whether an object requires an application for export from Norway or not. It was stated earlier that objects over one

Typical examples of objects for which the Norwegian Folk Museum receives export applications. The applications are primarily assessed based on photographs submitted by the applicants themselves. The quality of the photographs may vary considerably, i.e. digital photographs may be of poor resolution or are not sharp enough for the details to appear. In such cases, the applicant is requested to submit new, better quality photographs. The photo above is borderline, i.e. it is good enough for the Norwegian Folk Museum to assess the application but it should also be detailed enough for customs officers to be able to decide whether the photograph shows the actual object carrying the granted export license. The photo comes from an application.

Vedtaksinstitusjonens vurdering av søknaden:

Med henvisning til lov av 9. juni 1978 nr. 50 om kulturminner § 23 og forskrift av 1. januar 2007 nr. 1 blir

søknaden (stempel og sign) innvilget

søknaden stempel og sign) avslått

  Norsk Folkemuseum
Postboks 720 Skøyen
0214 Oslo Oslo 8/7-2010

Underskrift av tjenestemann Vedtaksinstitusjonens navn Sted Dato

Foto (skal stemples og signeres av vedtaksinstitusjonen ved vedtak)



 R. 8/7-10
Folkemuseum
Postboks 720 Skøyen
Oslo



A casket painted by Annanias Tveit from Os in Hordaland. This casket was granted an export licence on the condition that it would first be sent to the Norwegian Folk Museum for examination and for photographic documentation. Photo: Anne-Lise Reinsfelt/NF32876

hundred years old were liable for export licenses. After changes to the regulations in 2009, it was determined that the general criteria should be that objects dating from before 1900 would be liable for applications and that no assessment should be associated with any monetary value. The Art and Antique Dealers Association of Norway (NKAF) were among those who wanted objects to be assessed based on a monetary value. The NKAF believed that the introduction of value limits would make it easier to comply with the regulations and save both the applicant and the institution's decision-makers from unnecessary routine work. However, the Norwegian Folk Museum rejected the use of monetary value as a determining factor for the requirement of an export application for cultural artefacts. The rationale was that a monetary value is determined only when artefacts are sold on the market, and the market often makes sharp turns, such that any defects or imperfections of an object will normally result in a greater impact on the market-determined value than on the object's historical value. The Norwegian Folk Museum thought it was important to stress that an artefact's importance should not be mea-

sured, first and foremost, by monetary value. Nor is age an ideal criterion for determining whether an application should be required for the export of an artefact, but we recognise that there must be guidelines that are possible to relate to. Until now we have had a 100-year age limit. In the coming years, this will require a disproportionate number of applications and, therefore, the Norwegian Folk Museum has supported the proposal to freeze the limit to anything older than the year 1900. Attempts have also been made to propose categories for these applications. The Norwegian Folk Museum believes that simple, more generally worded regulations provide less room for doubt about what to apply for in an export permit and, not least, there is less danger that some applicants believe themselves to be in good faith because a cultural artefact is not specifically mentioned in the regulations. The Norwegian Folk Museum is of the opinion that tight regulations and rigid practice are beneficial for all parties and has, at the same time, a great understanding for the concern expressed by the NKAF regarding problems associated with determining which objects are subject to application, along with the

application's added workload. In order for neither the applicant nor the processing institution to suffer an unreasonable workload, the Norwegian Folk Museum has proposed a simplified application and treatment process. The Norwegian Council for Cultural Affairs is now looking at possibilities for an Internet-based solution, and the Norwegian Folk Museum, when in doubt as to whether an application is required, will encourage and simplify the process.

The Norwegian Folk Museum currently receives the majority of applications via e-mail. Incoming applications and photos, whether they arrive by standard mail or e-mail, are signed, stamped and scanned to a PDF format before being returned either electronically or by standard post. If our officer-in-charge is present, the applicant can have their case decided within an hour. More important than the processing time, however, is the workload suffered by professionals in the market. Private applicants may willingly endure a one-off, tedious application process, but those whose daily work involves the selling of antiques or other objects which require multiple applications should all endeavour to make the application process as smooth as



Most of the items the Norwegian Folk Museum receives export applications for are of a type well covered in the collections of the Norwegian Folk Museum or other cultural historical museums and can, therefore, automatically be shipped out of the country”

possible. It is a well-known fact that running a small-scale business in Norway means a considerable amount of paperwork, and the Norwegian Folk Museum has no desire to unnecessarily add to this burden.

Most of the items the Norwegian Folk Museum receives export applications for are of a type well covered in the collections of the Norwegian Folk Museum or other cultural historical museums and can, therefore, automatically be shipped out of the country. Applications for items that are not subject to export permit are received on a regular basis due to the fact that the objects are from a date later than 1900. It is not always easy for the applicant to determine the age of an object, in this case usually the application is granted rather than being returned unprocessed. The idea behind this practice is that if the applicant is in doubt about the object's age, then the customs authorities will probably also be doubtful. With an approved application many problems can be avoided in customs.

Over the past five years, since 2007, the Norwegian Folk Museum has received and processed a total of 208 applications involving 710 artefacts. Of these, only five items were retained, one in 2007 and four in 2008. One was a hanging cabinet decorated with floral

paintings by Ola Hansson. The artist was considered to be of such significance in the field of Norwegian folk art that his work should remain in the country. The other four rejections belonged to one and the same applicant – a Norwegian artist who wanted to use about fifty objects of Norwegian folk culture as part of a work of installation art that was to be exhibited in the United States. Four of these items, two chairs and two powder horns, were held back because there was a danger that the items could be damaged in the installation. If the objects had been planned to be included in a collection, or otherwise well cared for, perhaps the assessment would have been different.

Only on one occasion, in 2009, was an item held back because of its place in folk art. This concerned a rose-painted casket decorated by the rose painter Annanias Tveit. The Norwegian Folk Museum has works by this artist in their collections, but they contacted the Bergen Museum for an assessment of the casket. In addition, inquiries were made to antique dealers to establish how much of this particular rose painter's work was for sale at that time. After an overall assessment, it was decided that an export permit could be granted on the condition that the casket be

brought to the Norwegian Folk Museum for examination and for thorough photographic documentation. Such practices may be applied on occasion rather than outright denials of applications for export.

The Norwegian Folk Museum uses a relatively liberal practice in the assessment of applications for the export of cultural artefacts. There have to be very compelling reasons to limit the owner's freedom to send cultural artefacts out of the country. In cases where the sender in Norway and the recipients abroad are related, there are few reasons for refusal. With regards to antique dealers selling to foreign buyers, a stricter eye to granting applications is used, but this is not the same as intervening in the trade of cultural artefacts. The Norwegian Folk Museum still feels that it is important to follow the system of applications, not only in order to protect the import and export of cultural artefacts, but more to ensure that there is documentation regarding items being shipped out of the country. Many of the items for which the Norwegian Folk Museum receives applications for export permits are fine examples of Norwegian folk art which may never have come to light if they were not exported out of the country.

Applications for the export of weapons are under the responsibility of the Armed Forces Museum. Due to the large variety in types of weapons, both in military and civilian use, some applications are submitted to the Norwegian Folk Museum. The civil percussion rifle pictured above is an illustration of one such example. In this case the applicant was a different cultural historical museum, which applied for a temporary export licence for an exhibition in Sweden. The application would have been submitted to the Armed Forces Museum if the applicant had applied for a permanent export permit. Photo: Anne-Lise Reinsfelt/NF.1933-0065





Archaeological Artefacts and Illegal Trade: A Norwegian Museum Perspective¹

Håkon Ingvaldsen

Department of Archaeology, Museum of Cultural History, University of Oslo

The Museum of Cultural History, University of Oslo (KHM) is the national authority on archaeological and ethnographic heritage. Archaeological material is defined as material coming from pre-Reformation times (i.e. before 1537). By virtue of this process, KHM handles export applications for such artefacts in Norway, participate in the processes of regulatory changes relating to cultural heritage, and KHM contributes as an expert witness in relation to police and customs authorities. Moreover, KHM acts as an administrative authority for ten eastern states (Fylker), and is responsible for such artefacts, and receives all the archaeological finds from this area. Developments in recent years have, for a variety of reasons, led to a greater awareness of archaeological ob-

jects crossing borders and their turnover, both on the open market and collected on the grey and black markets. This article will mainly focus on the archaeological objects that cross borders.

The workload of the last year shows that the problems surrounding illegal archaeological artefacts can roughly be divided into four types:

1. Cultural artefacts either destroyed or taken out of their country of origin because of war and armed conflicts,
2. Objects that are brought illegally into the country of origin for sale and/or money laundering in a transit country,
3. Objects that are traded on the collectors' market and moved between countries without adherence to export/import regulations and

4. items that are more or less inadvertently taken out of the country of origin or transit country by tourists and travellers as souvenirs or trinkets.

On an international level, the museum's challenges are mainly connected with the removal of illegal artefacts across national boundaries (Rasmussen, 2007), the problem of laundering of cultural heritage in transit countries and the problem of getting states to ratify international agreements which would help to gain control over artefacts that are illegally brought into the country of origin. At the national level it is the museum's task mainly to administer the provisions of the Cultural Heritage Act with respect to archaeological research, discovery processing and export permits (Cultural Heritage Act; KHM Management).





Globalisation, increasing international cooperation and modern lines of communication have led to an increased movement of illegal artefacts and archaeological objects. International war operations, increasingly complex armed conflicts, relief work across national borders, the flow of refugees and the free movement of citizens of the Schengen Area have contributed to increasing opportunities for the flow of objects across national borders (cf. Museum 2003 for a general discussion on the main themes). Part of this flow of objects is caused by the so-called "object laundering". This occurs when unregistered archaeological objects are illegally taken out of the country of origin and then imported, again illegally, to another country.

After a while, an application for an export permit and/or statement from a museum or other cultural authority on the subject's authenticity, age and origin is made. If this is achieved, then the items are exported again, but this time to a third country where they can be sold completely "legally". Nordic countries have experienced a slight increase in activity of this nature in recent years, and objects are often shipped to countries with a large and active group of antique dealers, auction houses and collectors.

Furthermore, another problem is that not all states have ratified the major conventions and international agreements that provide a framework for dealing with problems of the movement of illegal arte-

facts (see Rasmussen 2007, 24 for a tabular overview of the most relevant agreements and conventions). Even Norway has been slow with this work and ratified the 1970 UNESCO Convention in 2007 (Rasmussen 2009; UNESCO Norway). But international conventions are one thing, and national legislation another. It can be a difficult task to give guidance about different nations' laws and regulations concerning cultural relics and archaeological objects. UNESCO has done considerable work in this area through the creation of a central database of the laws of various nations (UNESCO National Laws). There is still a problem insofar, as much of the legal texts referred to are far too general and do not include amendments and regulations that often govern trade and export issues in detail.

At the national level, the challenge with regards to archaeological material (including coins) was to establish a legal framework which would be functional in practice. It was, for instance, until recently a legal requirement to apply for export permits for all coins over 100 years old, with one application for each object and five copies including photos. In practice, this proved impossible to enforce, as Norwegian coin dealers alone send thousands of such items out of the country every



week. After a review of the regulations contained in the Cultural Heritage Act, changes were made that resulted in a manageable set of rules that both private museums and antiques/coin dealers can live with (the Cultural Heritage Act, para. 23). But a clear legal framework is not always sufficient as a day-to-day, practical guide when well-travelled (illegal) archaeological objects are considered. Recent cases at KHM have shown that many objects often fall into a grey area from which it is difficult to make specific decisions. Objects in the grey area often belong to either collections that have been in Norway for a long time, collections of unknown national origin, collections from countries that have ratified international conventions and agreements, or collections that have been brought to Norway by officials or business people after many years of service abroad. In addition, we have experienced uncertainty about collections that are bought by more or less prominent art collectors in Norway, where the most talked about in recent years is the so-called Schøyen Collection (Schøyen Coll. Resources).

The problem with far-travelled, illegal archaeological artefacts in Norway is relatively modest. KHM receives roughly one case per month. Among the six to seven cases from the current year, we can look more closely at three which, in their own way, highlight some of those issues which we must take into account and solve if we are to improve the national management of illegal artefacts. The first case concerns about ten to twelve different archaeological objects originating in the Middle East – KHM was contacted by the owner requesting whether the museum would determine and confirm their authenticity and issue a declaration for them. The person would not provide the findings or place of origin, but we have since had reason

to believe that they may have originated in Iraq. Nor would this person inform us whether the objects were actually in Norway or not and only initially presented photographs of various objects, these being vases, cuneiform tablets, coins, small sculptures and a relief (Fig. 1, Fig 2). KHM dismissed the individual with reference to international rules, and asked to see the export permit from the country of origin before there could be any further discussion. One week later, the individual turned up again and managed (using a bluff) to talk to the museum staff. This time he had with him items that he insisted on showing. This was rejected, and he was told again that he had to show an export permit before we could even look at the objects. After some discussion he finally left the museum and has not been heard of since, but KHM is in possession of some photographic documentation of the collection (its parts). The circumstances of the case meant that it has been submitted to the Norwegian police authorities for further investigation. It may seem strange that a person who obviously possesses illegal artefacts insists on exhibiting them at a public museum. The only plausible explanation for this must be that the owner wanted some kind of confirmation that the objects had been examined by a museum, a confirmation he could then utilise as an authorisation certificate for the objects' authenticity and "legality". The case is still under investigation, so we cannot yet conclude the question of liability. But this appears to be an example of an attempted laundering of archaeological objects before being presented for sale again in another country.

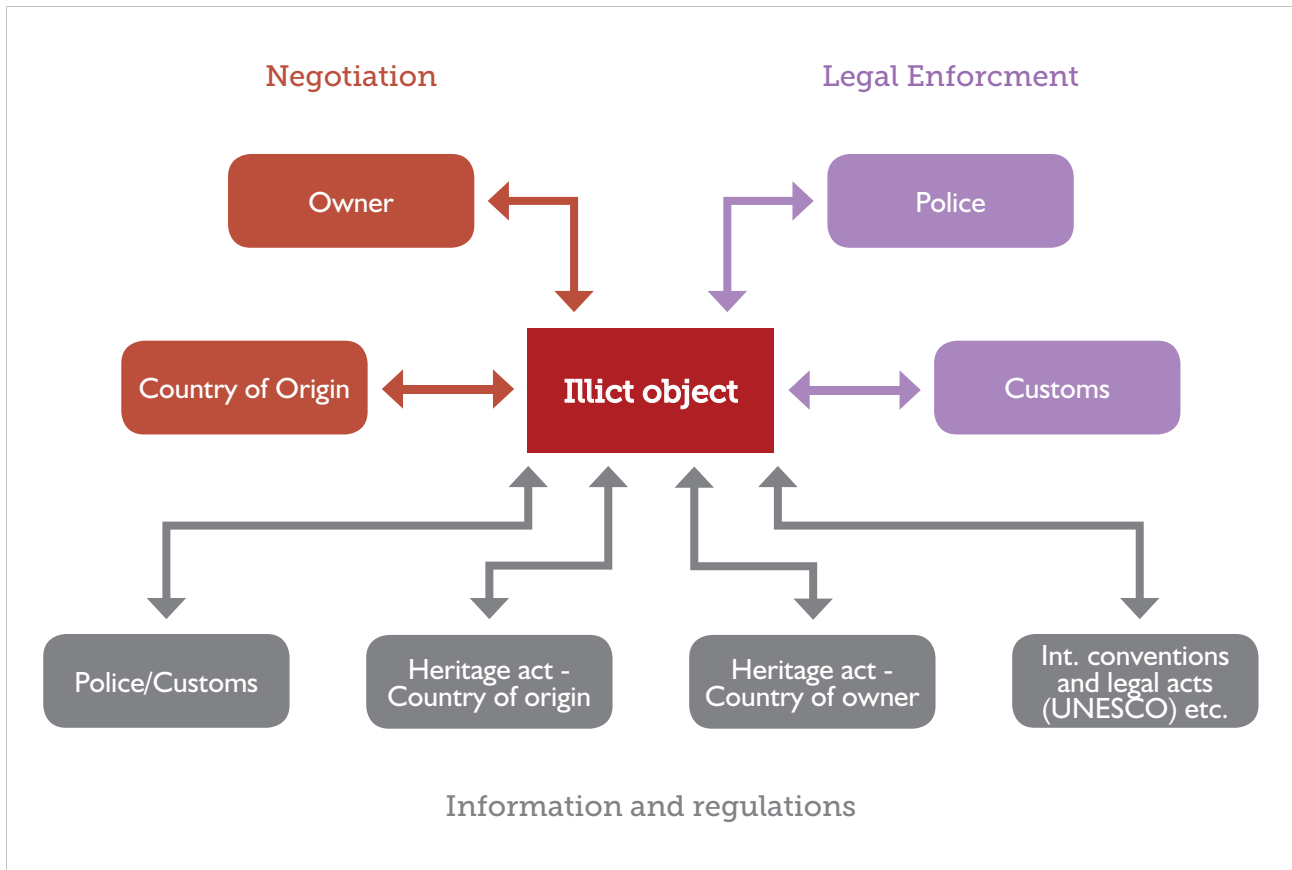
In the following example, KHM was contacted by a person who claimed to have brought two archaeological artefacts illegally into Norway. These were two very unassuming ceramic vases (Hellenistic-Ro-

man unguentaria) which he had received as a gift from his then family-in-law. During a visit to his in-laws in the town of Reihanly in Turkey, his hosts supposedly crossed the border to Syria and then returned to Turkey with the ceramic items in question. It was apparently common practice for the people in this village to cross the border to a nearby necropolis where the amount of available small objects was quite large. The Norwegian family seemed reluctant to refuse the gift and brought it back to Norway in their luggage. The owner initially contacted KHM for an appraisal of the objects, but after being informed about the legislation and practices, he decided that he wanted to deposit the vases with KHM until they could be returned to their country of origin. The ICOM Code of Ethics provides for such proceedings if the items fall into categories that the museum has administrative responsibility for (ICOM Ethics). Syrian authorities (Syrian embassy in Stockholm) have recently demanded repatriation of the items, and are satisfied with the cooperation with the Norwegian authorities

The latest example was captured on the website www.finn.no (the largest online marketplace). One seller advertised a "Viking sword originally discovered in Poland". There were several questionable aspects of the case, among which one was that the price was too low and that the sword seemed to be of an Anglo-Saxon type, but KHM chose to contact the Ministry of Culture and National Heritage (Ministerstwo Kultury i Dziedzictwa Narodowego) in Poland to consult about the case. After a few hours it became clear that the sword was not registered as a stolen cultural artefact in Poland, nor was it registered as looted from the site that was quoted in the advert, rather, it most likely came from findings in the British Isles and quite certainly was



Globalisation, increasing international cooperation and modern lines of communication have led to an increased movement of illegal artefacts and archaeological objects"



Flowchart for the exchange of communication and information between the different agencies in connection with illegal archaeological objects. From a museum's perspective.

a modern replica of an old sword. The seller later changed his story and claimed that the sword was inherited and therefore could legally be sold in Norway. The item was quickly withdrawn from sale.

These three cases each, each in their own way, illustrate that the most critical aspect as to how the effectiveness of international and national laws and international conventions can be implemented, is through the degree of communication between the various authorities involved. Cases are often made more complicated by the fact that bilateral negotiations may be necessary, an individual nation's laws can play their part and may require close cooperation between the police, customs authorities, museums/professionals and an authority/ministry to ensure that the information needed to process cases quickly and with satisfactory results is provided. A schematic summary of the communicative flow between the different authorities (in this case viewed from the perspective of

KHM) reveals some critical points which may be improved in relation to the current situation (Fig. 3). The flow chart is divided into three main areas: Negotiation (to achieve the best possible outcome of the case), Application of the law (when a crime is suspected) and Information and regulations (to ensure that all parties are acting in accordance with the ethical regulations and international agreements). The three current cases we have cited as examples reveal the challenges when it comes to information exchange and communication between authorities.

The Negotiation phase was difficult in the Iraqi case, as KHM has no authority either to withhold items or, naturally, individuals who appear with presumed illegal archaeological items. When the owner is unwilling to provide personal data, his/her national origin or other information, there is not much one can do. For the Syria case, the negotiating phase represented no problem. The owner's information and

transparency meant that the established procedures, with regard to deposit and repatriation, could be followed by the book. In the Polish case, the seller was identified on the website, but quickly changed the story behind the object so that it was difficult (impossible) to pursue the matter further with a view to negotiating a solution.

In the area of Application of the law, the communication lines and contact points are more formalised and clearer to follow. The Iraqi case was submitted to the police authorities and investigated in the usual way. In the Syria case, there is no need to involve the police or customs authorities. In the Polish case the burden of proof is very difficult to determine because the owner claims that the object is an old heirloom, and as the item is most certainly a fake anyway, it has not been pursued by the police or customs authorities.

The communication channels in the area of Information and regulations are complex but clear. A critical point here is to

assess when and if the police or customs authorities should be notified. One is furthermore dependent on effective contact points with the authorities in the countries of origin when a suspicion arises that illegal archaeological objects are being dealt with. In addition, the guidelines are clear regarding the procedures and responsibilities with regard to any deposit of objects and/or repatriation. In the three cases we have used as examples here, the UNESCO conventions, ICOM's Code of Ethics and the UNESCO Committee for Promoting the Return of Cultural Property, have laid the foundations in addition to the national legislation adjusted in accordance with commitments to international agreements.

Based on this quick review and previous experience with similar cases, we can conclude the following: international conventions, agreements and ethical work are, in most cases, satisfactory. Cooperation and communication with law enforcement authorities and directorates/departments are largely clear and satisfactory. There ought to be regular contact points established between the management of museums and police authorities in cases dealing with illegal artefacts. This will ensure a faster response to suspected illegal activity. Customs could have prevented two of the three cases we have just looked at, but as we all realise; it is very difficult

to detect small objects at border crossings, both for imports and exports. Nevertheless, we must assume that a strengthening of controls at the borders, also with regard to illegal artefacts, will produce better results. A 2008 report revealed a great need for expertise in the area of cultural heritage of Customs Administration (Jacobsen et al. 2008). Museums and professional bodies have, in turn, increased awareness and knowledge in the field of illegal artefacts, and a growing number of people in organisations have satisfactory knowledge of the laws and procedures. Yet, at this point many improvements can be made, e.g. each museum management (at the museums with national responsibility according to the Cultural heritage act) should have a permanent contact person for cases of cultural crimes. This must be a person with an intimate knowledge of international and national laws, agreements and conventions, professional practice and ethical guidelines. The person should serve as a contact point for the police, customs authorities/departments, antique dealers, collectors and the general public. He/she should also ensure that the institution's internal expertise in the field is sufficient and appropriate to ensure that this be raised if necessary. Increased informative work on the directorate's side will assist in spreading information about the relevant laws



and regulations to the general population. This is a job that is never finished and which would benefit from escalation in the future. The same may be said about cultural knowledge being taught at colleges and universities. We should expect that archaeologists and other professionals are familiar with the main issues regarding illegal artefacts and with the main features of international agreements, national legislation and institutional responsibilities when they enter their professions after graduation.



This is not always the case nowadays. It is also necessary and desirable to establish and develop bilateral contacts with a view to combating cultural crime. Polish-Norwegian cooperation in this field has already demonstrated how effectively it can act at the institutional level when a suspicion arises that objects are illegal.

The presumption is that there are established bilateral contact points and procedures for case processing and alarming in advance. Again, if the contact points operate as suggested above vis-à-vis national authorities and institutions, then we have come a long way. It is particularly demanding to establish

and maintain such contacts across national borders; however, it is becoming increasingly necessary. And last but not least, we must all work together to increase the number of nations ratifying the most central conventions regulating trade in and the movement of archaeological artefacts.

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ENDNOTES

1. This article does not assume to give a detailed account of illegal artefacts seen from a Norwegian standpoint. The article attempts to summarise the experiences of KHM regarding the practical management of the current legislation, to identify the main problems and challenges in the present situation and to present some thoughts as to what could improve the situation in the long-term perspective. Emphasis has been given to focusing on the practical issues, as we come across them in the museum every day, after all that is where practical management takes place. The article summarises the main points of the author's three contributions within the framework of the cooperative project entitled Legal and Illicit Trade with Cultural Heritage: "Cultural heritage and illicit trade: Challenges, progress and the necessity of cooperation as experienced by the Museum of Cultural History, University of Oslo" (Gdansk, October 2010); "Stop heritage crime: Coins, archaeological and ethnographic material" (Lillestrøm, January 2011); "Illicit objects: Between legal framework and practical handling. Recent cases from Norway" (Warsaw, May 2011).

War, crisis and illicit trade: the Iraqi lesson

Rafał Koliński

Adam Mickiewicz University, Poznań

The aim of this paper is to present some observations concerning the recent military conflicts and disturbances in the Middle East and their impact on both the protection of cultural heritage and trade in antiquities.

The role of the armed forces in the protection of cultural heritage

The protection of cultural heritage in times of armed conflict is regulated by the Hague Convention and its two protocols, i.e. of 1954 and 1999. The Convention entered into force on 7 August 1956, over 50 years ago, and is binding to those countries which ratified it – only 123 at present¹. For instance, among the prominent countries participating in the coalition carrying out “Operation Iraqi Freedom” in Iraq in 2003, USA ratified it only in 2009, and Great Britain, Korea and the Philippines never did.

Moreover, the stipulations of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and especially its Second Protocol, are conditional and allow countries to perform forbidden activities even if they are Contracting Parties to the Convention or if they are required by “military necessity” (Article 4, 1-2), defined only in the Second Protocol to the Hague Convention in 1999 (Article 6).

The main concern of the military forces is to accomplish their military tasks and to enforce security. As a result, the military or civil specialists responsible for the protection of cultural heritage, whose presence within the armed forces during the military conflict is one of the stipulations of the Hague Convention², are often hardly able to act properly because their activity is considered less important than the other tasks the

armed forces have to fulfil. The obvious result of such a situation is that all the activities related to the protection of heritage during an armed conflict are often much delayed and hardly effective.

I would like to recall as a case study the situation in Babylon – one of the most important ancient cities in Iraq. The site was taken over by the US Army just after a successful offensive in Baghdad, mainly because the area of the site featuring a reconstructed ancient building as well as a neighbouring palace of Saddam Hussein belonged to the state. Later, Camp Alpha (Babylon), became the main base of the Multinational Division commanded by the Polish Army. The main problem with heritage protection was that archaeological experts arrived at the site many months after the soldiers. Consequently, the army con-

sidered the sumptuous reconstructions of ancient temples and palaces, commissioned by Saddam Hussein in the 1970s and 1980s as antiquities, but the settlement mound on which a large part of Camp Alpha was located was treated as mere “earth” without any historical significance. This situation changed slightly when a part of the site with the ruins of the central Palace was fenced, but it only supported a false impression that the “antiquities zone” was limited to that area and that the rest of the camp area had no archaeological value.

The presence of a military base at the site in Babylon became a matter of a hearty debate mainly concerning the issue of damages caused to the archaeological site by the army (Fig. 1). However, it turned out, as in the case of many other sites, that the presence of army

Camp Alpha (Babylon), damage to the site of Humara, November 2003
(Photo: R. Koliński)



units at archaeological sites is the only effective way to prevent illicit excavations. Sites on which even small posts were placed were devoid of more extensive damage, while those left without army control were heavily damaged (Fig. 2). Nearly ten years after “Operation Iraqi Freedom”, it is clear that despite the fact that the army caused damage to the sites, these are much lesser in comparison to sites left unprotected.

Looting of museums and archaeological sites

In April 2003 the entire world was shocked by pictures of the National Museum in Baghdad showing broken, empty glass showcases, forced storage room doors and mutilated artifacts scattered on the floors. The thieves did not spare offices and storage rooms – taking computers, electric fans and other electric devices. A total of 35 items of unique value disappeared from the exposition, about 15 000 more were stolen from laboratories and storage rooms, and a large number were damaged (Löw 2003; Bogdanos 2005, Polk – Schuster 2005; Rothfeld 2009).

Robberies and demolition affected most of the provincial museums, both in large cities (Mosul, Basra) and at archaeological sites (Babylon)³. However, most small museums were not showing any real antiquities at that time, but only gypsum copies. This was a result of the first wave of robberies which had affected all of the regional museums in Iraq in the years 1991-1992, after an offensive launched as part of “Operation Desert Storm” had been stopped. At that time, ca. 13 000 artifacts disappeared, most of which were never recovered (Gibson et al. 1992; Baker et al. 1993; Fuji et al. 1996).

A recent attempt to steal antiquities from the Egyptian Museum in Cairo (Alderman 2011), and instances of breaking into storage rooms of several local museums in Egypt⁴ (e.g. Qantara) demonstrate that attempts to steal antiquities from museums are not specific to Iraq, but should rather be considered a part of Middle East reality.

The looting of archaeological sites in Iraq which took place after the war in 2003 is also not a new issue. The first wave of looting took place during the years after “Operation Desert Storm” and affected nearly all sites located in the countryside. The second wave took place in the years 2002-2003, just before the invasion, when the power of Saddam’s regime was partly eroded by years of sanctions and by the prospect of the oncoming war (Schone 2008). The third wave, in 2003-2005, affected sites which were already partly damaged, but due to the “semi-industrial” organisation of looting, including the use of mechanical shovels and bulldozers, damage to the archaeological sites was much more disastrous. Again, there is an analogy from Egypt, where, after the Tourist Police withdrew from the archaeological sites, attempts to break into the closed tombs, dig at the necropolis and illegally build houses on the archaeological sites were observed.

Market(s) for ancient Middle East art

Looting and stealing items from museum collections has a clear economic background. Despite the fact that many of the objects stolen from the National Museum of Iraq were recovered (30 out of 35 exceptional objects, and 8000

out of 15 000 smaller items), as well as most objects taken from the Egyptian Museum, the missing objects have probably already found a place in private art collections. The exact number of items illegally excavated in Iraq between 1991 and the present is unknown. Even speculations on this subject are difficult, but their count is certainly in the tens of thousands, possibly even much more than 100 000 objects.

On the other hand, the market for ancient art is growing rapidly. The high demand for antiquities may be explained by the opinion that they are considered to be a very effective way of investing money. Cuneiform tablets are valued at from 200 to several thousand dollars, rarer items of known origin are sold for millions of dollars⁵. Despite the fact that all leading museums have agreed not to buy antiquities of unknown provenance and the largest auction houses, such as Sotheby’s or Christie’s, check the history of the collections sold, there is a big market run by smaller auction houses and antiquaries which sell art mainly to private, anonymous collectors.

An example of a collection which has grown very rapidly during the last 20 years is the Martin Shoeyn Collection in Oslo, which presently comprises more than 6 500 cuneiform texts and a significant number of other antiquities. Some of them, such as the “Ziggurat Stela of Nabuchodonozor II⁶”, are of exceptional value. But as they were not known previously, either from older collections or from excavation records, it is highly probable that they were illegally excavated and transported out of their country of origin. One can expect a large number of private collections that have



Nearly ten years after “Operation Iraqi Freedom”, it is clear that despite the fact that the army caused damage to the sites, these are much lesser in comparison to sites left unprotected”

formed recently in the gulf countries, Japan, USA and South American countries, which are not publicly advertised and which are based on "black market" transactions.

There has been an extensive discussion on the issue of trade in antiquities, especially in the US. Archaeologists generally emphasise that illicit digging destroys archaeological sites and deprives artifacts of their context, which, in consequence, causes loss of information which would be recorded in scientific excavations. The opponents, representing a larger part of the strong lobby of art traders, say that it is market where art can be evaluated in the only reliable way, and that if there were no market for antiquities, many items of exceptional value would never reach the museum and other collections in the first place.

Recent scandals concerning the purchases of illegally excavated items by prominent American museums, such as the Getty Museum of Art in Los Angeles⁷, will hopefully have an effect on the market, though this effect will most likely be limited, as the merchants will probably look for conspicuous clients.

Social factors in looting and illegal trade

As for the reasons of looting and illegal trade, it is impossible to point to a single cause. Two have already been indicated, namely the high demand for antiquities and the political situation resulting in the periodic collapse of central authority in the Middle East. However, there is a very strong social background to the issue. Firstly, a significant number of people in Middle East countries live in poverty and may look for opportunities to amend their economic standing. It was also suggested that looting was used as a way to raise funds for anti-coalition guerillas in Iraq⁸. Finally, the present culture of Middle East countries (with the exception of Israel) has no relation whatsoever to the ancient civilisations of the region. Consequently, the antiquities are not considered as "our heritage", but are perceived as "strange", "foreign" and "infidel".

For the reasons described above, preventing illicit excavations and trade of

objects of heritage in the Middle East is a very difficult task. There are, in fact, several possible strategies, such as changing regulations in order to create better conditions for the protection of heritage, setting limitations on the market for antiquities,

limiting the smuggling of antiquities from their countries of origin, designing better protection of archaeological sites and fighting unemployment and poverty in the affected countries. Of these, changes to the law and limiting the art market seem to be the easiest to carry out, but their results will probably be very limited. Changes to the law will be observed in countries which are hardly affected by illicit digging, and while most of the Middle East countries have very high penalties for crimes against cultural heritage⁹, during times of turmoil catching and condemning looters became problematic. Limiting official trade in objects of art will most likely result in the moving of a significant part of these sales to the black market. Preventing the smuggling of antiquities is quite easy at airports due to the high level of security demands, but most of the Middle East countries have long strips of borders running through desolate areas of

mountains or deserts, and many of them have open sea shores as well. Guarding such borders against specialised smugglers is nearly impossible. Much could be done to improve the protection of archaeological sites. Apart from countries with an unstable political situation, such as Libya or Yemen, the most difficult situation is still in Iraq. Inadequate resources, both in personnel and equipment, make protection of cultural heritage hardly possible¹⁰.

The largest potential lies in the sphere of fighting against poverty and unemployment. Political stabilisation (in the case of Iraq or Libya) and internal reforms (in most of the other Arab countries) will most likely result in an increase in living standards. But again, the rate and temporal scope of this process is difficult to evaluate.

Conclusion

The conclusion of my lecture is pessimistic. The experience of recent armed conflicts and the following periods of political instability in Iraq and later events in Egypt show a recurring pattern. Crimes against cultural heritage are always committed when there is only a slight lapse of the central authority and a loosening

The site of Bismaya (ancient Adab): looters' trenches on the surface of the tell in March 2002 (Photo: R. Koliński)



of control over the population executed by the police and security forces. Therefore, there is no easy way to stop or even to limit illicit digging in the Middle East without substantial changes, mainly

at the social and economic level. Changes are likely to happen, but the process will be probably slow and extended in time. During that time, the cultural heritage of Middle East countries will be

continuously looted and destroyed, and the artifacts will flow to collections of unscrupulous collectors, as has been the case in recent years.

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ENDNOTES

1. The number of countries which ratified the First and Second Protocol is even smaller (100 and 60 countries, respectively). (<http://portal.unesco.org/la/convention.asp?KO=15391&language=E&order=alpha>; <http://portal.unesco.org/la/convention.asp?KO=15207&language=E&order=alpha>).
2. Article 8 of the Regulations for the Execution of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, constituting a part of the Hague Convention.
3. After the collapse of Saddam Hussein's regime, all state offices and institutions were entirely looted all over Iraq by the local population.
4. There is yet no available information on this subject from Libya.
5. Two of the most remarkable sales of Middle East items are the Canford relief, excavated by Layard in Nineveh, bought by the Japanese MIHO Museum for 7 701 500 at Christie's in 1994, and the so-called Guennol lioness, a tiny figurine showing a lion standing in an upright position, sold at Sotheby's to an undisclosed collector for \$57 161 000 in 2007.
6. <http://www.schoyencollection.com/history/Babylonian.html#2063>.
7. Mrs. Marion True, former antiquities curator at the Getty Museum in LA, California, was accused of conspiring to buy antiquities for the museum that had been illegally excavated and exported from Italy. True claimed innocent. After five years the case was finally dismissed in 2010 because the statute of limitations had expired.
8. As far as I know, this has never been hinted at by the guerrillas themselves.
9. Up to 10 years of imprisonment and up to E 1 000 000 fine (ca. \$120 000) in Egypt, from 10 to 20 years imprisonment in Syria.
10. According to the newspaper, *Kurdish Zaman* of 4 September 2010, in the Dhi Qar province of Iraq, where there are about 1 000 identified archaeological sites, there are as few as 100 guards to protect them.

Museums, Cultural Property and Illicit Trade in Times of War and Conflict

Leif Pareli

Curator, Norsk Folkemuseum – The Norwegian Museum of Cultural History and President of ICOM Norway

The purpose of this presentation is to underline the interconnection between war – or similar situations of breakdown of law and order – and the looting and plunder of cultural property, as well as the illicit trade in such property. We will also look at the role museums may play in such trade, in other words, to what extent museums stimulate and encourage illicit trade, and thereby looting, through buying or displaying items acquired through this market. Finally, we will take a look at what museums and museum organizations can do to reduce or stop this trade, and thereby discourage and prevent looting.

We all know that war and other conflict create an opening for looting and illicit trade. Certainly, the plunder of archaeological sites also takes place in many areas where there is no war, but it is, above all, in countries at war or other situations of social breakdown that the most conspicuous plunder of cultural heritage occurs. I will mention a few examples:

Afghanistan

This is a very relevant case to Norwegians, not only because Norway has a long-term military presence there, but also because one of the most active private collectors of certain types of objects from Afghanistan's past is a wealthy Norwegian – Martin Schøyen. His collection, which is one of the largest private collections in the world, consists primarily of ancient manuscripts and objects from Central Asia. There has been a consistent policy of secrecy surrounding the acquisition of these objects, and only when pressed has Mr. Schøyen, on occasion admitted irregularities, for instance, when it was proven beyond doubt that some of his manuscripts must

have been stolen from the National Museum in Kabul. They were subsequently handed over to Afghanistan's ambassador to Norway. Many experts believe that there is much more in the collection that stems from the looting of archaeological sites, both in Afghanistan and in other countries of the region.

The Schøyen Collection is an interesting case but not the only example we have. It can illustrate how a private collection (of a dubious background) gradually undergoes laundering and is made respectable by becoming the object of study by a university professor, or through cooperation with a respectable institution, in this case the Norwegian National Library, which for several years provided a link to the collection on its homepage. ICOM Norway strongly argued that the National Library had to end this cooperation because it was providing a sense of respectability to the collection. For several years, the Library was unwilling or hesitant to take any action, but under continued pressure, they added conditions to the cooperation arrangement. These conditions probably became so inconvenient that the Schøyen Collection decided to end the cooperation themselves. ICOM Norway naturally welcomed this decision. Also, the university professor who had been studying the Buddhist texts has now withdrawn from further cooperation with the Collection.

Iraq

Another example of a war situation is Iraq, with the looting of the National Museum in Baghdad and the widespread and ongoing looting of archaeological sites around the country. I will not say more about Iraq since it will be dealt with in another presentation, but I am

mentioning it as one of the most serious cases of looting going on in the world today.

Egypt

Let us rather move on to another country which has been in the news these days and which is of immense scholarly importance – Egypt. Egypt has not been at war during recent months, but the unrest and upheavals have meant a general breakdown of law and order which in some respects are similar to a war-like situation.

We probably all saw the televised scenes from Cairo's Tahrir Square in January and early February of this year, depicting the dramatic events that were taking place directly in front of the Egyptian Museum. We all kept our fingers crossed that the Museum itself, with its priceless collections, would not be harmed during the sometimes violent fighting going on outside, including the burning of the high-rise building next door. Fortunately, no major harm was done. But there were reports of people breaking into the building and of objects being stolen or damaged in the hunt for treasures. Over the next few days and weeks, we received varying and contradicting reports from various sources. There were rumours and accusations of inside participation and the demand that



the powerful Minister of State for Antiquities, Zahi Hawass, should resign. The final and official list of missing objects, published on 15 March, comprised 54 objects. Some of these were later retrieved.

A more important and relevant question is: What happened elsewhere around the country?

Egypt is a country literally peppered with archaeological sites. No exact lists exist, but figures of around 5000 sites are sometimes quoted, though others say the number is much higher. Most of these places are, even during times of relative normality, insufficiently or poorly secured. During the revolutionary weeks of January and February, there were alarming reports that the police and guards throughout the country had abandoned their posts, leaving hundreds of archaeological sites unguarded. Gangs of armed treasure hunters took advantage of the chaos and began plundering the archaeological sites and antiquities store houses throughout the country.

Here are some examples from a report by CIPEG (ICOM's committee for Egyptologists) and ICOM's Disaster Relief Task Force, of 13 April:

Abusir

"Further information by the Czech Mission about the huge damage of the sites in Abusir with more than 200 illegal digs. Also, thieves got into the store house which was badly looted."



Abydos

"After many reports about heavy lootings (especially in the area of the American Mission) finally the army got there to protect the important site on March 6th."

Buto

"On Friday night, a group of 35 criminals attacked the storage magazines at Tell el-Fara'in (Buto), an ancient and important former capital of Lower Egypt, the Delta."

Fayoum

"Armed groups have been digging for ancient artifacts at the Garza archeological site in Fayoum, said eyewitnesses. Watchmen guarding the area said the armed groups came to the site several times at night with automatic weapons, forcing them to leave the area so that they could dig and search for artifacts (..) leaving behind dozens of deep holes."

Illicit trade

First a few words about what is special about illicit trade in cultural property. It is often compared to other types of illicit trade, such as drugs or weapons – and true, there are many similarities, but there are also some important differences. A special feature of trade in cultural property, unlike that of drugs or weapons, is that the trade itself, or rather the number of changes of ownership included in the trade, contributes to the laundering or whitewashing of historical objects. They are, on a step-by-step basis, transformed from "illegal" to "legal". Whereas in trafficking drugs or weapons every aspect of the trade is a criminal act, in the field of cultural goods we gradually move from illegal to legal. This is where the role of the museum becomes crucial.

The need to establish a credible record of a good title means that the more times an object is sold, the more difficult it is to trace its origin, and thus to question its history. Certain markets have been developed for this purpose in countries such as Switzerland, Israel and Argentina and in the city-state of Hong Kong, to mention a few. But this can also take place elsewhere. It is also likely that

seemingly "innocent" countries, such as Norway or Poland, could be playing an increasing role in such international trade. The chain of changes of ownership involving these countries, does not mean that the object must physically be moved into and out of a country. Ownership can change several times with the object remaining in the same place, discreetly out of sight of customs and the police.

Typically, the chain of participants in the illicit trade involves: first, the diggers, who are often the local people living near the site of the looting. Next, the middlemen, who buy from the looters for cheap sums and sell at a much higher profit to the smugglers. Then come the antique dealers, and it is mainly at this point that the transformation from illegal contraband to legitimate cultural objects starts to take place. A major step on the path to legality is to have the objects exhibited in a respectable institution, such as a museum – the object is then near the point where it can be sold at no risk to a seller or buyer.

This leads us to the role of museums.

Although much illicit trade does not involve museums, it has long been recognized that museums, especially art museums in the United States, play a central role in creating a demand for unprovenanced antiquities. This involves not only what these museums acquire for their collections, but also what they display during temporary exhibitions from the outside. Such displays help establish a record of respectability for the object(s) and pave the way for bona-fide acquisition at a later point. The renowned British archaeologist, Colin Renfrew, has argued this point strongly, stating that "Reputation laundering by public exhibition is the up-market version of money laundering in the traffic of drugs." He then goes on to criticise the Boston Museum of Fine Arts and the Metropolitan Museum of Art. His conclusion is that "it is a group of prominent museum directors who must take the main blame for the continuing scale of looting." The Metropolitan has never published any policy on acquisitionsAn

example to the contrary is the British Museum, which in 1998 decided that they would only acquire objects possessing documentation to show that the objects were exported from their country of origin prior to 1970. Similar guidelines have been adopted by other museums.

Now let us briefly look at what is being done by ICOM, the international organization for museums worldwide.

First and foremost, there are the Ethical Rules, stating, among others, that:

2.2 Valid Title:

No object or specimen should be acquired by purchase, gift, loan, bequest, or exchange unless the acquiring museum is satisfied that a valid title is held. Evidence of lawful ownership in a country is not necessarily valid title.

(Valid title: An indisputable right to ownership of property, supported by full provenance of the item from discovery or production.)

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.

2.4 Objects and Specimens from Unauthorised or Unscientific Fieldwork:

Museums should not acquire objects where there is reason to believe their recovery involved the unauthorized, unscientific, or intentional destruction or

damage of monuments, archaeological or geological sites, or species and natural habitat. In the same way, acquisition should not occur if there has been a failure to disclose the finds to the owner or occupier of the land, or to the proper legal or governmental authorities.

The rules are quite clear; all museums which are ICOM members are obliged to follow these rules.

ICOM also has a Standing Committee on Ethics, which not only deals with more general questions concerning ethical problems in museum work, but also goes into specific cases. For instance, last year the committee made a recommendation in a dispute about a painting by Tiepolo between the Landesmuseum Hannover in Germany, which had bought the painting in 1985, and an Italian family from whose Paris apartment the painting had been stolen in 1979. The committee found that the museum had failed in due diligence when it bought the painting, e.g. there was no check on recent provenance, no export papers, no permission for such an important work of art to be taken out of France, and no taxes paid. The museum was therefore obliged to return the painting to the family.

ICOM also organizes the publication of lists, such as "One Hundred Missing Objects" and "The Red Lists" of endangered objects or specimens. These lists may not deal with specific cases of theft or loss, but they do help raise the general public's level of awareness concerning such issues.

We should also mention ICOM's Disaster Relief Task Force, which is not intended to combat illicit trade but, by monitoring and supporting museums and cultural property endangered in times of war or natural disasters, may be helpful in discovering and restraining looting and smuggling in the wake of such events. Its

recent role in collecting specific information about the situation in Egypt is one example of their work.

One serious limitation is that ICOM's rules are binding only for museums which are ICOM members. Museums that are not members may therefore ignore the rules or reject the organization's authority. This is the case with the majority of art museums in America and also with some in Europe. An example is the St. Louis Art Museum, which in 1998 purchased an Egyptian mask of Ka-Nefer-Nefer, a noblewoman at the court of Ramses II, for \$500 000. The mask was purchased from a New York art dealer (with a dubious reputation), who had forged a fake provenance "from a private collection in Switzerland". Yet the owners of the collection in question said they had never seen the mask before. In all likelihood it had been stolen from a store house in Saqqara, and several experts on Egyptian art argued that the museum should return the mask to Egypt. Those interested can read more about this case on the homepage of ARCA, The Association for Research into Crimes Against Art at <http://art-crime.blogspot.com> – which, incidentally, also has some interesting information concerning Polish art that has recently been rediscovered in Moscow, and about current negotiations under way to have these pieces returned to Poland.

Besides ICOM, we should also mention another relevant organization (or network) namely Blue Shield. The organization was founded on the basis of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and the Convention's two protocols: the First Protocol, which places an obligation on state parties not to remove cultural objects from territories occupied during wartime, and the Second Protocol, from 1999, which



A major step on the path to legality is to have the objects exhibited in a respectable institution, such as a museum"



extends this obligation to parties engaged in civil war and establishes that violations of the Convention are criminal offences, thus providing rules for the prosecution of offenders. Unfortunately, although 123 states have ratified the Hague Convention (the last one so far was the United States, in 2009), and 100 have also signed the First Protocol, only 59 have so far signed the Second Protocol. Norway signed the Convention and First Protocol in 1961, but the process to have Norway sign the Second Protocol was recently postponed yet again, to the frustration of both ICOM Norway and the Norwegian Blue Shield Committee. Both have argued for many years that Norway must sign the Second Protocol and implement the Convention. These organizations will continue to put pressure on state authorities to partake in these actions. Poland is in a similar situation, i.e. it has signed the Convention and First Protocol but it has not signed the Second Protocol.

Conclusion

It is, of course, not possible to present simple and clear solutions to the various problems touched upon in this paper, and the tasks are enormous in scale and complexity. For in-

stance, in an article in Newsweek last week, the renowned Egyptologist, Kent Weeks, stated: "What should be done to protect Egypt's monuments? Here's a list on which most Egyptologists agree: Consult with local and international agencies and specialists to develop and implement long-term management plans. Train on-site inspectors and give them greater responsibility. Design better security for sites and museums. Allocate more money for site conservation and documentation. Take a strong stand against commercial and political interests that threaten the monuments."

These are, of course, formidable tasks outside the scope of this conference. We can – and should – encourage and support Egypt and other countries in similar situations, but ultimately such measures must be decided upon and implemented by the countries themselves.

What we can do is to promote the knowledge and understanding of international conventions in our own countries and within our own governments. I have mentioned the repeated efforts by ICOM and Blue Shield to have Norway sign and implement such conventions – not only the Hague Convention, but also the 1970 UNESCO Convention on Illicit Trade of Cultural Property, which Norway finally signed a few years ago.

Amid the setbacks and frustrations, there are some promising signs that awareness concerning these matters is growing. For instance the Norwegian Blue Shield Committee recently wrote to the Ministry of Defense in connection with the conflict in Libya, where Norway is actively participating, reminding them of Libya's rich cultural heritage and of Norway's obligations under the Hague Convention to avoid damage to this heritage. In their reply letter, the Ministry assured us that they were indeed aware of these issues and that they had given instructions in this matter and would continue to monitor the situation. The letter was altogether written in a positive tone. This shows clear progress, compared to similar situations before, when they provided noncommittal answers or did not answer at all. Let us hope that this signals a real change in the level of awareness.

Finally, on the issue of illicit trade – given that museums play a crucial role in this trade, maybe our best bet lies in this last part of the chain, i.e. in the buyers; those museums which today play a dubious role in this field. We must continue to promote the rules laid down in the ICOM Code of Ethics and, supported by several conferences and other initiatives outside the organization, ensure that they will gradually become more generally accepted. This is how we can be most optimistic about breaking this reprehensible chain of illicit trade in cultural objects.

That we are having a conference like this one, involving experts covering a wide range of professions and responsibilities within the protection of cultural heritage, is one fruitful step in the right direction!

Art and antique dealers. Ethics and trade in cultural property

Marianne Gjertsen

Chair of the Norwegian Art and Antique Dealers Association

I'm visiting some friends in Berlin and going back home tonight. I drop by a highly-regarded art dealer that I know. He shows me a goblet for sale, claiming that it comes from Norway. I look – and what do I see? On the goblet is an engraving of the Eidsvoll building, where the Norwegian constitution was signed. The goblet was, undoubtedly, manufactured in the Hurdal glassworks around 1800. Perhaps it comes from Carsten Anker's collection? It's a totally unique object of great significance to Norwegian culture and history... a real sensation!

According to what the dealer says, the owner of the goblet is an elderly widow of a German officer who was stationed in Norway in 1943 and who came into possession of it there. Earlier, the goblet belonged to a Jewish family that had been deported and deprived of all possessions.

The widow insists that the payment be made in cash. She is an elderly lady and doesn't really trust "those modern means of payment".

Well, I guess there will be large sums of money involved. Will I be able to afford the goblet? Will I get permission to take it out of Germany and bring it in to Norway? And if not, I would be buying something that would have to stay in Germany, even though it belonged to me. If everything goes as I intend it to, I will have to come back to Berlin to collect it. Will the goblet be safe here in the meantime?

Will I be obliged to leave it at the disposal of the museum in Eidsvoll? It could create a sensation during the exhibition on the occasion of the bicentenary of the signing of the Norwegian Constitution in 2014.

On the other hand, I have a very good client who would be willing to pay good

money for it, and after all, I need money at the moment. The client would truly be disappointed if he didn't get a chance to buy the goblet.

Am I buying something that – according to my ethical standards – is actually a stolen object? There's also the question of the cash settlement. Can I be accused of money laundering?

I have one more dilemma. I should, after all, see to it that the Jewish family, if any of the family's members are still living, recovers the property that it had probably unfortunately lost. Should they get it from me for free? What if they don't live in Norway? Will I be allowed to take the object out of the country?

Am I obliged to bring this rare object of national cultural heritage back to its country of origin? Who should I hand it over to afterwards?



Why am I telling this story? To give you an idea of what ethical dilemmas, moral and practical, a person dealing in antiques might have. What are my obligations as a serious dealer, compatriot and member of society?

Ethics, or moral philosophy, can be described as the part of philosophy that attempts to answer the question of “What is good?” and “How should we

behave?”. We also have four cardinal virtues here: fortitude, prudence, justice and temperance.

The situation that I have found myself in requires that I make the right decision. I have to make it quickly. My plane leaves in a few hours.

There are many myths about art and antique dealers. Just like Shakespeare’s Shylock in “The Merchant of Venice” –

in literature and in film – and most often in crime fiction and movies, they usually appear as villains. This stereotype was even repeated once during the lecture of a now-retired head of the Norwegian Archive, Library and Museum Authority (ABM-utvikling), who told a juicy story, not really favourable for us, aiming to present our ethical standards. Back then we were too polite to comment...another example of a similar attitude was a high-ranking official’s press statement stating that at least 10% of the goods found in antique dealers’ collections are stolen goods.

Is it even plausible that someone could give in to the temptation to use this way of presenting matters to create a positive opinion about themselves, to authenticate their role, strengthen their position or to obtain more funds for their business activity? I don’t know the answer to this question... and I don’t know whether we should be laughing or crying about it.

My experience is that people dealing in art and antiques are guided by high ethical standards in their work, and that they spare no effort to act in accordance with the current law. Losing the good reputation and trust we so depend on turns out to be very painful. It is impossible to carry out this kind of activity if you have dishonest intentions. However, just as in the case of various other professions, including lawyers, doctors, police officers and scientists, also in our trade there are people whose morality leaves a lot to be desired.

Dealers in art and antiques are interested in the protection of these objects to the same extent as museums are. The only difference is that we have to make a living by dealing in these objects.



“

If illegal trade in cultural property is as widespread as estimated, it also poses a direct economic threat to us, i.e. it threatens our presence on the market and constitutes unfair competition for the goods we offer and which come from reliable sources”

Another thing that needs to be taken into consideration is the issue of the interpretation of laws and regulations, i.e. it shouldn't be too difficult so as not to lead to situations in which it would be easy to break the law. It also seems worrisome that, due to too strict regulations and requirements, this trade is becoming more and more often the domain of dishonest people acting on the edges of the law.

The Norwegian Art and Antique Dealers Association (Norges Kunst- og Antikvitetshandleres Forening) is a non-profit organisation founded in 1945. Some of the Association's objectives are: protecting the interests of the trade, promoting an understanding of art and culture, and maintaining and reinforcing ethical standards. The organisation has also developed its own code of ethics.

The Association currently has 27 members, including companies dealing in antiques, oriental carpets, works of art and coins, as well as galleries, antiquarian bookshops and auction houses. We organise regular member meetings with specialist discussions and lectures as well as visits to museums and cultural institutions. We offer consultations with the country's leading experts in specific fields.

The criteria for admission are very strict and are mainly associated with specialist knowledge, the quality of the objects and good business practice. Acting against the code of ethics and the Association's mission results in being crossed off the list of members.

We are a part of the international organisation, CINOA, which is a confederation of similar associations from 23 countries. They have similar membership criteria, thanks to which we are also connected to the Art Loss Register database in London.

Documents with information about the looting and plundering of cultural property in poorer countries with a weak infrastructure, often affected by war and conflict, make a lasting impression on all of us, including the art and antique dealers who, apart from being sellers, feel that they are promoting culture as well.

The fact that the regulations concerning the export of cultural goods are in agreement with our interests should not be a surprise to anyone. If illegal trade in cultural

property is as widespread as estimated, it also poses a direct economic threat to us, i.e. it threatens our presence on the market and constitutes unfair competition for the goods we offer and which come from reliable sources.

It seems to me that there aren't many people who have enough knowledge to confirm the authenticity of goods that come from countries destroyed by war and other catastrophes. Becoming an expert in any field takes years. What art and antique dealers fear most is buying something that they don't know enough about or whose authenticity they are not certain of. The risk is just too high.

Fortunately, provided our information is honest and reliable, the members of our organisation have so far received no offers to buy the illegally imported cultural property we're talking about here. It's possible that these goods currently end up in countries other than Norway. The case may be, of course, that we're dealing with a black market which we are not able to track or control. Another possible explanation of the evident lack of such objects on the market is that the potential sellers realise that they would be exposed and simply don't want to risk coming to us. Dealers also doubt whether we would have any clients interested in objects of such origin.

It is clear that, just like museums and state authorities, we care about high ethical standards being applied when importing and exporting cultural property. Many of our members carry out advanced activities for the return of valuable objects of cultural property to their countries of origin. We also need to remember that it is the art and antique dealers who, thanks to their worldwide activity, enrich art collections with valuable works and objects. Such collections are then often handed over, bequeathed or sold to museums, where they are made available to the general public.

Our association is happy to be able to establish cooperation with both Norwegian and international authorities. This cooperation aims to combat illicit trade in cultural property.

Raising awareness, preventing trade in illegally obtained cultural property and providing the appropriate groundwork in society – these must be our common objectives. Thanks to the opportunity to communicate with the wider public, we can do much in this area. This should lead to a situation where trading in, collecting or possessing valuable cultural property from illegal sources is never related to prestige or profit, and where it's never regarded as morally acceptable.





Cases of theft from the National Gallery's exhibition halls in 1982, 1993 and 1994

Sidsel Helliesen

The National Museum of Art, Architecture and Design, Oslo¹

The most spectacular theft in the National Gallery's history is undoubtedly that of Edvard Munch's painting, *The Scream* (Inv. no. NG.M.00939; Fig. 1), on 12 February 1994. The incident received huge attention worldwide, not only mainly due to *The Scream's* iconic status as one of the most famous paintings of the western world, but also due to the way it was removed from the museum. Moreover, the timing was opportune, i.e. early morning on the opening day of the Winter Olympics in Lillehammer, when the media were ready to set their sights on Norway. This theft at the National Gallery in 1994 was surpassed by a robbery from the Munch Museum on 31 August 2004, when the paintings *The Scream* and *Madonna* were removed during the museum's opening hours. As one can see, confusion arises as to which paintings the two thefts involved². I will return to the theft of *The Scream* at the National Gallery in 1994 but assume that, in the context of this book, the other two events are of interest.

On 20 August 1993 another of Edvard Munch's paintings, *Study for a Portrait* (Inv. no. NG.M.03054; Fig. 2), was stolen. It was exhibited in a cabinet on the 2nd floor of the building. Towards the end of the museum's opening hours, one of the guards discovered an empty space on the wall, and it is estimated that the picture had been removed during the opening hours the same day. The painting is small, only 25.5 cm x 29 cm, and at that time alarms were not installed for all of the exhibited paintings and surveillance cameras were not placed in every exhibition hall, so the thief was probably quite easily able to loosen the painting and to carry it out underneath his/her coat while the guard was in a different room. Unfortunately, the painting has not yet (as of June 2011) come to light, but we hope that it will one day ap-

pear "somewhere out there" and be returned to the museum – undamaged!

The poor security measures which this theft revealed were exceptionally embarrassing to the museum, not least in the view of the fact that no less than eight paintings

had been stolen from the museum's halls on the 2nd floor. The pieces which disappeared in 1982 were: Pablo Picasso's *Guitar and Glass* (Inv. no. NG.M.01260; Fig. 3), Pablo Picasso's *Guitar* (Inv. no. NG.M.01259), Vincent van Gogh's *Self-portrait* (Inv. no.

Edvard Munch, *The Scream*, 1893

The National Museum of Art, Architecture and Design

Photo: Børre Høstland, Nasjonalmuseet 2011

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Edvard Munch, *Study for a Portrait*, 1887.

The National Museum of Art, Architecture and Design Photo: Jacques Lathion, Nasjonalgalleriet 1995
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NG.M.00943), Paul Gauguin's *Basket of Flowers* (Inv. no. NG.M.00770), Paul Gauguin's *Madame Mette Gauguin in Evening Dress* (Inv. no. NG.M. 00771), Francisco Goya's *Night Scene from the Inquisition* (v NG.M.01347), an Anonymous (formerly attributed to Rembrandt) *Portrait of a Man* (Inv. no. NG.M.01363), and an Anonymous (formerly attributed to Rembrandt) *Landscape with a Horseman* (Inv. no. NG.M.01364). These were all the works of very well-known artists, even though the name "Rembrandt", which was written on the old labels of the frames, was hardly a particularly convincing attribution even for non-specialists.

The building was at that time shell-secured with alarm wires on the windows of the exhibition halls on the 1st and 2nd floors, and on the doors to the exhibition halls from the staircases. The observant thieves must have noticed that the alarm did not cover the upper door panels. On the night between 10 and 11 October they managed thus to climb unnoticed through a basement window, walk up the stairs to the 2nd floor and into the halls of the north wing by removing the door panel. Here they could operate fairly undisturbed. The eight paintings were taken out of their frames and the thieves took the paintings with them out of the building

the same way as they had entered. This theft was first discovered when the museum opened the next morning. This was obviously a terrible experience for the museum's managementⁱⁱⁱ, not least because they were quite astonished that it had been possible at all. The disappointment was just as big, but perhaps no surprise, after the events of 1993 and 1994. Then it seemed more obvious – in retrospect – that the security had been insufficient.

The theft in 1982 aroused a great deal of attention of many – and for the museum extremely unpleasant – reports in the press. We were the subject of much public ridicule, both then and in 1994,

but my impression is that our colleagues had a sympathetic understanding of the risks that many museums have had to live with. There was also a powerful wake-up call for an increased priority concerning safety. The fact that seven of the paintings returned in June 1984 was barely worth a notice in the press, but it was obviously a day of celebration for the museum.

The story of how the seven paintings were recovered has never been told in detail to the public. It was a "classic" case of blackmail which could compete with any crime novel or TV detective story. In a highly secret collaboration between the Norwegian and German police, as the result of a request conveyed by intermediaries, it was "promised" that an amount should be deposited in a German bank account at exactly the same time when one of the National Gallery's staff members could view and approve that the paintings were the same as the stolen ones. Leif E. Plahte, who was head of the National Gallery's restoration studio at the time and who knew the paintings well, was asked to undertake the assignment. With a microphone in his tie, he was transferred to Hanau (Hesse), where the paintings were in the trunk of a car in a garage. "Of course I was not blindfolded, and was not driven out to a dark forest in the famous novel style. Nevertheless, I had my heart in my throat when I came to the seized vehicle and discovered packages and rolls that reportedly were to contain the works of art."v Plahte could immediately confirm that these were actually seven of the eight stolen paintings, and the police did take action before the money was credited to an account. It was a nerve-racking experience for the museum's staff, but the paintings were recovered! As might be expected of a theft with blackmail as the motive, the paintings were almost intact, as only Picasso's *Guitar* had some damage. vi The eighth painting, Gauguin's *Basket of Flowers*, was returned to the museum in March 1985, after an anonymous telephone call to the German police it was found in a locker at the train station in Innsbruck. The canvas had been taken out of its frame and the painting had suffered considerable damage. As far as I am aware, the perpetrators behind the 1982 theft have never been arrested. At the same time, the positive moral is that the blackmail never worked!

Nevertheless, blackmail was the motive for the spectacular theft of Munch's *The Scream* in 1994. But once again, the thieves failed in their intentions and the painting was, fortunately, virtually unharmed when returned back to the museum. The story of how the painting was removed is so well known from repeated reviews and images of a movie with a ladder up to the shattered window on the first floor of the building's main facade that it is almost superfluous to retell what happened. As mentioned before, it was on the same day as the Olympic Winter Games in Lillehammer were to open. On the occasion of the Olympic Games, the museum

had its entire collection of paintings by Edvard Munch on display in the halls on the first floor of the building's south wing. Normally, a selection of the Munch collection was exhibited in one separate hall and in one or two cabinets of the Museum's 2nd floor. The idea was to make the National Gallery's very important Munch paintings more accessible to its many visitors – as a celebration and a welcome gesture. Yet it was naive not to be better equipped in security measures, for although there was a wave alarm system in the halls attached to a 24/7 manned monitoring centre in the building, this system was neither technically, nor in terms of established practices,

Pablo Picasso, *Guitar and Glass*, 1911
The National Museum of Art, Architecture and Design
Photo: Jacques Lathion, Nasjonalgalleriet 1995 ©





The story of how the seven paintings were recovered has never been told in detail to the public. It was a “classic” case of blackmail which could compete with any crime novel or TV detective story”

anywhere near adequate. The Scream was hanging, “readily available”, on the wall next to the window as the thief, early in the morning, climbed up a ladder, broke in and got through. The alarm went off, but it was not responded to adequately or quickly enough, and the thief not only managed to unhook the painting, but also had time to put up a note with a greeting and then disappeared before the police were notified. Not only the picture of the ladder against the window, but also the director’s remark that he did not think it would be possible to enter through a win-

dow so high up on the wall, travel across the globe and was, of course, met with much scorn and ridicule.

This unfortunate incident had an equally exciting sequel and as good an exit as the theft in 1982. Excellent police work, under the leadership of Leif A. Lier, in cooperation with Scotland Yard’s Art Squad, led to the painting’s return to the National Gallery on 7 May, 84 days after it had been stolen. In addition, it was virtually unscathed! Once again, this was centred on “fooling” those who were involved in the theft and the blackmail, and

once again Leif E. Plahte turned up as the museum employee to confirm that it was actually the original painting the men had in their keeping. The chairman of the board at the National Gallery, Jens Kristian Thune, played an important role in the investigation, which had a happy result. He later wrote a book about the incident.vii After the theft of The Scream, all routines covering glass-case, hall and display security systems were thoroughly evaluated, and considerable improvements were made. Not least, the personnel’s awareness was sharpened.

ENDNOTES

1. The National Gallery was, in 2003, integrated with the National Museum of Art.
2. Partly because the titles are identical (mostly due to Munch himself as he painted several versions (replicas) of these motifs, cf. Woll, G. (2009). Edvard Munch. Complete paintings. Catalogue raisonné, London: Thames & Hudson, nos. 332, 333, 372 and 896, 365, 366, 367, 368 and 369), and partly because the National Gallery/National Museum and the Munch Museum are both in Oslo and are often confused (The National Gallery was state-owned, whereas the Munch Museum is owned by the municipality of Oslo).
3. All three thefts occurred during the leadership of Knut Berg (1973-1995).
4. Arne Huuse of the Surveillance Police was responsible for the operation on the Norwegian side.
5. Bugge Moestue (1984), E. The National Gallery praises the thieves, *Aftenposten*, 19 June.
6. The canvas was removed from the canvas stretcher and rolled up with the painted side inwards. Gauguin’s *Madame Mette Gauguin in Evening Dress*, which was rolled onto the outside of the Guitar with its painted side out, was undamaged. The other Picasso painting and that of van Gogh, which was also painted on canvas, was still in its canvas stretcher. The other three paintings were painted on board.
7. Thune, J. K. (1996). *Med et skrik*. Oslo: H. Aschehoug & Co.

Protection of underwater cultural heritage in the Polish zone of the Baltic Sea

Iwona Pomian

Polish Maritime Museum, Gdańsk

Introduction

Since its waters are not transparent and its temperature is rather low, it would seem that the Baltic Sea is hardly an attractive spot for diving aficionados. However, its unique natural environment, with salinity lower than in most other sea basins, offers natural protection for the historical objects located on its bed. For that reason, the Baltic Sea is very interesting in terms of heritage preservation. Thanks to the favourable natural environment, numerous wooden shipwrecks from different historical periods have survived to this day almost entirely intact. One example is the wreck of the Dutch merchant ship, the *Vrouw Marija*, recently discovered off the coast of Finland. The ship sank in 1771 on a voyage from Amsterdam to St. Petersburg. It was carrying typical items popular in Dutch-Russian trade, such as sugar, coffee, clothing, tin and other metals, but the cargo also included valuable items purchased for Tsarina Catherine II of Russia, including paintings by 17th-century Dutch masters. The wreck lay undiscovered on the bed of the Baltic Sea until 1999 (Gelderblom 2003). Since then, an ongoing debate has been taking place over the rights of ownership to the uncovered treasure.

The *Vrouw Marija* is a particularly precious shipwreck, but other vessels with more typical cargoes and equipment are no less interesting. Preserved in perfect condition, they provide rich archaeological material for the study of trade and navigation in different historical periods. These vessels are remarkably well-preserved items of high antiquarian value.

Until the 1970s, the greatest danger to underwater archaeological sites in the Polish zone of the Baltic Sea was industrial fish-

ing. However, a much more serious threat has subsequently arisen from the dynamic development of diving techniques, which now make it relatively easy for divers to penetrate the sea bed. Unfortunately, this uncontrolled access can cause irreparable harm to shipwrecks and, in consequence, can significantly lower their value in a very short period of time.

Investigation of cultural heritage in the Polish zone of the Baltic Sea

The first systematic underwater studies in Poland date back to before WWII, when an inventory was made of the underwater section of the *Biskupin* settlement. After the war, underwater research was

resumed and involved making inventories of lake sites. However, it was not until the discovery of the *Solen* and another 15th-century merchant ship (the *Miedziowiec*) in the Bay of Gdańsk that systematic underwater archaeological research in the Polish zone of the Baltic truly commenced.

An Underwater Search and Survey Department (currently the Underwater Archaeology Department) was created at the Maritime Museum in Gdańsk, which later changed its name to the Polish Maritime Museum (PMM) in 1970.

The department has already worked at more than thirty sites, including, among others, the wreck of an 18th-century Dutch vessel, the wreck of the *General Carleton*, built in England in 1777; the

Items found in the wreck of the 15th-century *Miedziowiec* (source: PMM archives)



remnants of a cog from the middle of the 13th century, discovered in the seaport of Rowy; as well as a medieval seaport in Puck, 12 ha in area. The last archaeological site to be studied by the PMM is directly related to the topic of this article – in June 2011 archaeological rescue studies were carried out on the remnants of a Swedish ship with a cargo of 43 cast-iron cannons from c. 1771. Because the wreck was found a significant distance from the shore, the site could not be safeguarded and monitored on a continual basis. For this reason, a decision was taken to transfer the cannons most at risk to an underwater archaeological park in the Bay of Gdańsk. It is worth mentioning that during the study, divers were approached by the alleged agent of a Danish treasure hunter offering to remove the cannons illegally.

Due to the limited scope of this article, issues surrounding the protection of underwater graveyards are not discussed. It

should be mentioned, however, that three shipwrecks which sunk at the end of WWII are already under full protection, these are the Wilhelm Gustloff, the Goya and the Steuben.1

Risks

Underwater archaeological sites are threatened by the following factors:

- » the natural environment (waves and ocean currents)
- » hydrotechnical works, such as building and maintaining seaports, placing cables and underwater pipelines, constructing wind farms, exploiting natural resources, etc.
- » theft and vandalism.

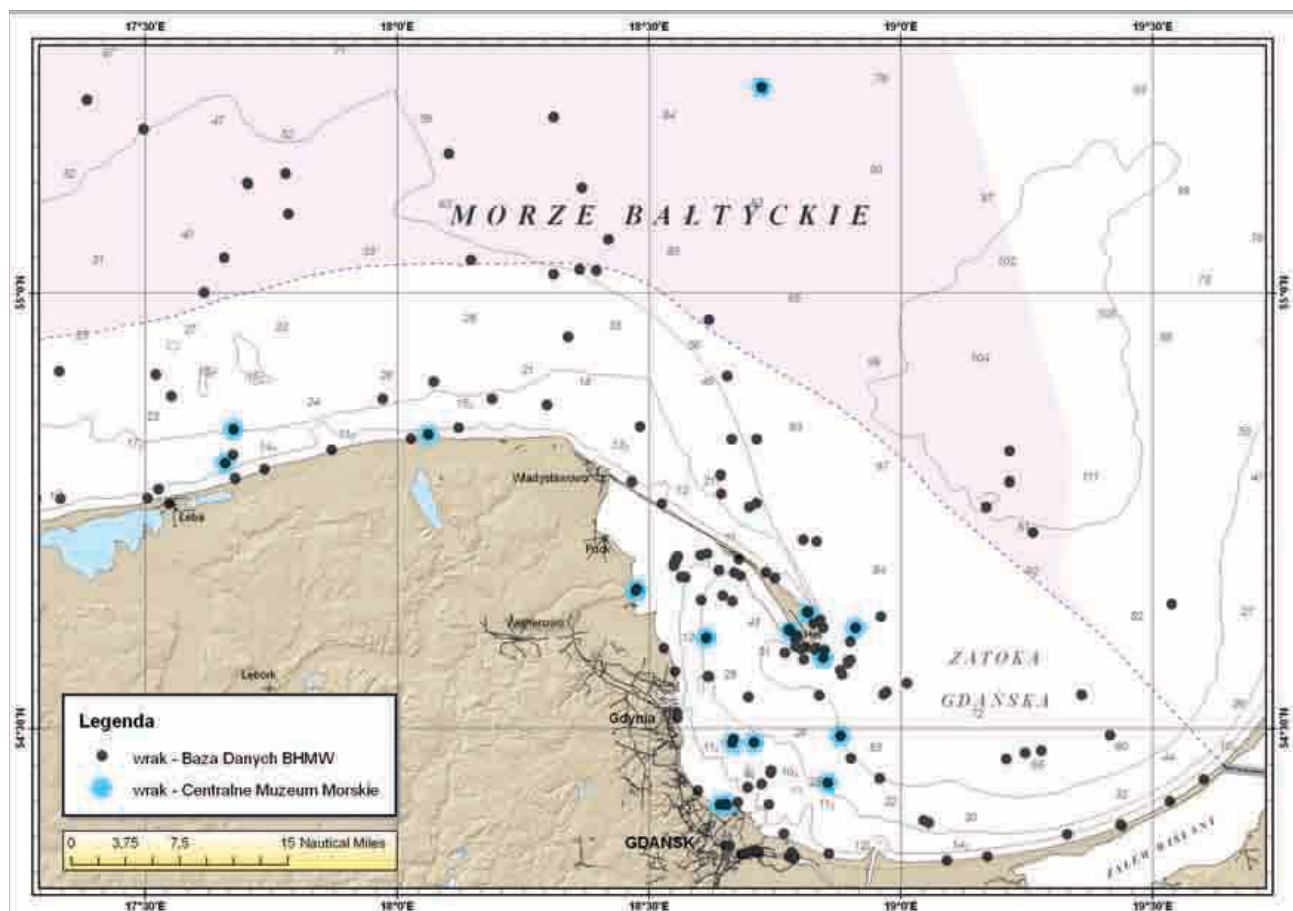
The purpose of this article is to discuss the last of these three factors. The impact of the natural environment and maritime investment projects on the preservation of underwater cultural heritage in Poland was studied in the framework of the MACHU

Project (Managing Cultural Heritage Underwater) completed in 2009.

The illegal removal of items from shipwrecks is often treated as a marginal phenomenon. The main reason for this is that the crime is usually difficult to detect. Until now, only a few instances have been registered. In October 2003, the Polish Maritime Museum was notified by the Marine Office in Gdynia that border guard officers patrolling the M/Y Heliox had intercepted items illegally removed from shipwrecks situated in the vicinity of Hel. These were passed on to the Harbour Master's Office in the seaport of Hel and catalogued. The number of intercepted items (39) suggests that they had been removed over a longer period of time and may have come from different shipwrecks. These were mostly items made of brass, which was probably the main reason for their removal.

In 2006, the PMM organised tourist cruises of local shipwrecks. In a one-week

Map illustrating the state of research into shipwrecks located off the coast of the province of Pomerania (source: Hydrographic Office of the Polish Navy)



interval between the two cruises, the engine order telegraph went missing from the *Margarette*. Sometimes, remnants of shipwrecks are found on the mainland or in coastal areas.

Another example is the damage caused to the wreck of a wooden sailing ship from the turn of the 18th and 19th centuries. The vessel was discovered in 2009 by amateur divers. In cooperation with the PMM, they inspected the find and prepared photographic documentation. The wreck was well-preserved and had all the elements of equipment, such as the rigging. Work resumed six months later – it turned out that the brass scuttles were missing, as were the wooden ornaments of the stern and the helm wheel. Researchers also stumbled upon a diver's bag stuffed with dead-eyes ready to be taken to the surface.

Another serious factor which has contributed to the degradation of underwater archaeological sites is vandalism. This phenomenon was duly noted by W. Plywaczewski, who wrote: "There is no doubt that modern plunderers who remove historical items from sea beds (and other aquatic basins) are also typical vandals. Driven by mercenary motives, rarely do they care to leave the site in a state which conforms to conservation standards. Their methods are mostly invasive; in practice, this means that all obstacles which stand in the way of a site where valuable items can be found are destroyed. As a result of these acts of vandalism, priceless cultural heritage sites are disappearing from archaeological registers at an unprecedented rate." (Plywaczewski, 2008: 27).

Legal provisions regarding the protection of underwater cultural heritage in Polish territorial waters

The ongoing protection of archaeological sites is regulated by the Act of 23 July 2003 on the Protection of Monuments and the Guardianship of Monuments (Journal of

Cast-iron cannons on the sea bed near Ustka
(photograph by T. Stachura)



Until the 1970s, the greatest danger to underwater archaeological sites in the Polish zone of the Baltic Sea was industrial fishing. However, a much more serious threat has subsequently arisen from the dynamic development of diving techniques, which now make it relatively easy for divers to penetrate the sea bed”

Laws 03.162.1568), Chapter I, art. 3.1 gives the definition of a monument: “real estate or movable object, their parts or complexes, being the work of human beings, or connected with their activity, and constituting a testimony of a past epoch or event, the preservation of which is in the social interest because of historical, artistic, or scientific value”², and of an archaeological monument: “an immovable monument constituting on-ground, underground, or underwater remains of the existence and activity of human beings consisting of cultural strata, and products, or their traces contained therein, or any such movable monument”.

Other basic terms are explained in article 6: “The protection and guardianship, regardless of the state of preservation, covers:

1. movable monuments, in particular:
 - » numismatic pieces, historical mementos, including in particular military accessories, standards, stamps, badges, medals and decorations;
 - » technology products, including in particular, machines, means of transport as well as machines and tools being a testimony of material culture, characteristic of old and new forms of economy, indicating the level of science and the development of civilisation;
2. archaeological monuments, in particular:
3. ground remains of primeval and historical settlements;
4. graveyards;
5. barrows;
6. relics of the economic, religious, and artistic activity”.

These provisions apply to all objects situated on the sea bed within the territorial waters of the Republic of Poland, which extend to 12 nautical miles (22,224 m) from the baseline.

Authorisation from the Provincial Conservator of Monuments is required to search for hidden or abandoned movable monuments (objects), including archaeological artifacts, with the use of all types of electronic and technical devices, as well as diving equipment.

Permits to undertake these activities in Polish territorial waters are “issued by the Director of the Marine Office, in agreement with the Provincial Inspector of Monuments in charge of the territory where the Marine Office is seated” (article 36.2).

On 30 September 2005 an agreement was signed between the Provincial Governor of Pomerania and the Director of the Polish Maritime Museum in Gdańsk, which transferred certain competences from the Pomeranian Provincial Conservator of Monuments in Gdańsk to the Director of the Polish Maritime Museum. The agreement was announced in the Official Journal of the Province of Pomerania (No. 105, item 21 12 of 2005) and came into force 14 days later.

These transferred competences pertain to actions pursuant to art. 36.2 of the Act on the Protection of Monuments and the Guardianship of Monuments in connection with the amendment of the Act on the Marine Zones of the Republic of Poland and Marine Administration, and art. 35.1 of this act.

Cast-iron cannons on the sea bed near Ustka (photograph by T. Stachura)



These competences only involve the handling of monuments (objects) inscribed in the register and the issuing of permits to search for hidden or abandoned movable monuments (objects), including archaeological artifacts, with the use of all kinds of electronic and technical devices as well as diving equipment. However, experience in underwater works and good cooperation with marine administration bodies allows us to predict that changes will soon be introduced to facilitate the handling of underwater archaeological heritage in a manner that will guarantee its preservation. Article 303 of the United Nations Convention on the Law of the Sea, adopted in 1992, has made it possible to extend the zone in which shipwrecks can be protected. Denmark was one of the first countries to take advantage of this new legal situation. Based on article 303, a Cultural Heritage Protection Zone was created within 24 nautical miles from the baseline, thus reaching beyond the 12-mile strip of Danish territorial waters.

Conclusions

One of the greatest challenges in safeguarding the archaeological treasures of the Baltic Sea is enforcing an effective monitoring and protection system. Hidden underwater and far away from the coastline,

shipwrecks are not easy to control. However, now that wreck diving has become an extremely popular form of tourism in the Baltic region, it would be risky to leave them completely unattended.

Any legal regulations banning free access to shipwrecks will naturally draw criti-

cism from certain circles, i.e. they will be perceived as an attempt to limit individual freedom or as mere bureaucracy. It should be pointed out, however, that at present the ban applies only to three of the several hundred shipwrecks located in Polish territorial waters.



There is no doubt that this group of shipwrecks will gradually be expanded to include the most valuable archaeological sites. In order to be able to quickly assess the cultural value of the discovered items, it is necessary to enlist the cooperation of the conservators and marine administra-

tion personnel in charge of the inventories. It is not until the basic data (age, origin, state of preservation, cultural strata, potential dangers) are obtained that a decision can be taken as to whether an object can be made available to the public or should be placed under protection.

It is also essential to ensure that international cooperation and information exchange about individuals and companies engaged in the illegal exploration of shipwrecks will take place. This could greatly improve the overall protection of the most valuable archaeological sites.

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- Act of 18 November 2001. The Polish Maritime Code (*Journal of Laws* 2001, No. 138, item 1545)
- Act of 23 July 2003 on the Protection of Monuments and the Guardianship of Monuments (*Journal of Laws* 2003, No. 162, item 1568 with later amendments)
- Minister of Infrastructure Regulation of 28 April 2004 laying down rules for determining the owner of property found at sea (*Journal of Laws* 2004, no. 110, item 1167)
- Minister of Infrastructure Regulation of 24 August 2004 on issuing permits to search shipwrecks and their remnants (*Journal of Laws* 2004, no. 197, item 2025.)
- Minister of Justice Regulation of 13 December 2004 laying down the rules for handling property found at sea (*Journal of Laws* 2004, no. 271, item 2689)
- Minister of Culture and National Heritage Regulation of 9 June 2004 on conservation works, renovation works and construction works, conservation and architectural studies, as well as other activities performed on a monument inscribed in the register of monuments, and archaeological searches and surveys of hidden or abandoned movable monuments (*Journal of Laws* 2004, No. 150, item 1579)
- Ordinance of the Director of the Marine Office in Gdynia No. 2 of 1 April 2003 on diving in sea waters (*Official Journal of the Province of Pomerania* 2003, No. 54, item 853)
- Announcement No. 2 of the Director of the Marine Office in Gdynia of 29 November 2004 regarding the creation of a protection zone surrounding the wrecks of the Wilhelm Gustloff and the Goya (*Official Journal of the Province of Pomerania*, 2005, No. 12, item 255)

ENDNOTES

1. Zob. Królikowski A., Pomian I., (2005) *Morskie cmentarzyska. Stan i ochrona miejsc katastrof morskich w polskiej strefie Bałtyku*, (w:) M. Opęchowski, A. Łazowski (red.), *Nekropolie. Kirkuty. Cmentarze*, t. II, Stowarzyszenie „Czas. Przestrzeń. Tożsamość”. Szczecin.

The Illegal Export of Historical Objects According to the National Border Guard's Assessment

Wojciech Krupiński

Coordinator in area of preventing crime against cultural heritage,
Investigation Operations Management of the Border Guard

The National Border Guard is a police-type force under the Ministry of the Interior and Administration. In accordance with the laws and regulations in effect, the Border Guard has the authority to identify, prevent and detect crimes and offences and to prosecute perpetrators. This concerns crimes and offences related to crossing national borders or the transfer of commodities and objects across national borders, including objects as specified in the Act on the Protection of Monuments and the Guardianship of Monuments. The National Border Guard has the authority to take action concerning historical objects, however, when special regulations on the protection of national heritage are taken into consideration, this authority is limited to combatting illegal export.

The following activities can be included among the main activities of the Border Guard in terms of the broadly defined concept of the protection of historical objects:

- » regular control checks on state borders and at border crossings (currently the outer borders of the EU)
- » carrying out preparatory proceedings related to violations of the regulations specified in the Act on the Protection of Monuments and the Guardianship of Monuments
- » cooperation with other law enforcement authorities (the police, Customs Service) and institutions specialising in the protection of historical treasures and monuments (the Ministry of Culture and National Heritage, the Provincial Conservator of Monuments) – in terms of information exchange of

- national and international significance and for consultations
- » participation in works on the drafts of legal acts related to cultural property
- » coordination of activities at the level of the National Border Guard Headquarters and Border Guard units
- » analysis of identified threats concerning trade in cultural property.

This scope of activities and their intensity depend largely on the current situation related to the threat of crimes against historical objects. The new legal and organisational reality that has been implemented for several years now has had an influence on the final evaluation of the scale of criminal activity in the form of smuggling and shapes the mode and scope of the Border Guard's activities in this area. First and foremost, this new

reality was introduced when Poland joined the Schengen Agreement, which led to the elimination of border checks on internal state borders within the EU and has allowed the right of free movement of persons and commodities across these internal borders. This has, in a significant way, opened up European markets to free trade in works of art and the broadly-defined term of monuments (historical objects), in the area of both legal and illegal trade. Another element influencing this new reality is the legal system, which has recently been changed in terms of issues related to historical objects. Particular changes concern the issues of export in the Act on the Protection of Monuments and the Guardianship of Monuments, i.e. an act strictly dealing with the subject of monuments (historical objects). The main aim of

Revealed collection of cold steel artifacts





The expert opinions of specialists in these relevant fields concerning the historic value, time of creation or value of the object being verified play a crucial role in the process of verification and the subsequent stages of criminal proceedings”

these amendments was to distinguish between the items of genuine cultural heritage that need to be protected at all costs and objects of little value that, although created a long time ago, do not present any significant social, historic or scientific value. Therefore, it could be said that in view of the new legal grounds concerning the transfer of objects artifacts across borders, most of the objects that would have been seized by the Guard before the amendments can now, after their implementation, be freely exported without much difficulty. There is no doubt that the above has an influence on the way smuggling as a crime is currently perceived. At the same time, the authorities dealing with crimes related to the cross-border transfer of commodities have received additional verification tools in the form of new documents. These new documents, i.e. evaluations, estimations or confirmations of import, are not, by nature, export docu-

ments, however, at this point, they become important elements facilitating the transfer of historical objects across borders.

This new reality, as described above, is also confirmed by the statistical data that is being gathered by the Border Guard as a part of their activities related to combating crimes concerning the illegal export of historical objects. There is currently a downward trend in these types of crime, as evidenced by the data on the number of preparatory proceedings carried out by the Border Guard.

Year	Number of Preparatory Proceedings
2006	140
2007	126
2008	75
2009	61
2010	27

There has also been a decrease in the number of objects verified by the guards during border checks, from over 2,000 items in the years 2006-2007 to 400 items in 2010. This trend has not, however, changed the catalogue of illegally exported objects, which includes furniture and furniture elements, numismatic objects, icons, household items, liturgical vessels, vehicles and books.

What is more, a completely different, higher level of social awareness has been noted as regards the formalities connected with the export of historical objects. This also concerns foreign travellers' level of awareness, as illustrated by the number of cases where people were unaware that they were actually smuggling something.

Nowadays, smuggling does not have to take on any special form, especially on the western and southern borders, where border control checks were eliminated when Poland joined the Schengen Agreement and customs controls were eliminated even earlier when Poland joined the EU. This means that in spite of the regulations that are in effect when it comes to crossing state borders and transferring commodities across them, it is difficult to combat this type of crime, as the means and verification possibilities have been substantially limited. The lack of the ultimate "sieve" in the form of border checks is an obvious example. At the same time, the picture of the current state of affairs is distorted when it comes to the smuggling of works of art or broadly defined monuments (historical objects). The cases that are revealed and evaluated could indeed indicate a particular nature and scale of the phenomenon of smuggling of historical objects (illegal transfer), however, this does not provide a full picture of the problem of the transfer of objects of cultural heritage across borders.

Revealed collection of paintings and icons



In their everyday work, Border Guard officers check and verify a large number of historical objects, but it must be remembered that they are not experts or specialists in the fields of art, history or science, i.e. their task is to identify and to pick out objects that could pertain to relevant export procedures provided for artifacts from the whole mass of commodities which are transferred across the border. The expert opinions of specialists in these relevant fields concerning the historic value, time of creation or value of the object being verified play a crucial role in the process of verification and the subsequent stages of criminal proceedings.

In this era of a new reality of protecting cultural treasures, the heart of the matter lies in the efficient processing of information essential to effectively combat all types of crime connected with historical artifacts, as illegal export is often related to other types of crime, such as theft and trading stolen goods. With open borders and the cross-border nature of the crimes, international cooperation is also very important and is carried out significantly more often (e.g. by the Interpol, law enforcement authorities from other countries). It is obvious that information which is properly gathered, processed and used constitutes the basis of any action on behalf of the law enforcement bodies, and that it actually in-



Revealed antique books and old prints

fluences their efficiency as well as effectiveness, regardless of the crime.

When analysing the issue of historical objects and the crimes associated with them, it seems that information about the object itself is crucial. Such information regarding the historical object's properties, characteristics, value and creator, gathered not only due to the crime, but also to create inventories or registers (catalogues), i.e. as part of the so-called prevention activities and protection of historical objects, constitutes the basic factor influencing effectiveness when it comes to conducting a

search later on. In order for the database system to fulfill its actual role, it has to contain the proper range of data gathered to be potentially used at a later moment. It seems that the widest possible range of data would be the most effective variant enabling the faster identification of a historical object as the object of a crime. Without the proper reference material (the proper range of data), the revealed objects, and especially works of art, are often hard to evaluate when Border Guards (and other authorities) carry out the preliminary activities, and in such cases, it will almost always



be necessary to call in experts and specialists in the given field in order to provide a binding expert opinion.

Databases can obviously turn out to be extremely helpful and effective when it comes to objects that are already included in them, or when at least some fragmentary information exists about the given object. They can, however, become useless when it comes to objects that are not inventoried (not included in any register or collection) due to ownership (usage), or not yet registered in connection with a crime.

The everyday use of this information determines the specific steps of action to be taken. When a historical object is identified during cross-border trans-

fers, the Border Guard officers carry out checks in all of the available databases in order to see whether the given object figures in any of them as, for example, having 'stolen' status. Further action depends on the result of the check. Depending on the type of database and accessibility to the information (online or by application), various ways of conduct are adopted towards the questioned object and the person transporting it. Often the result of such a check may lead to the object being seized, with sometimes even the person being detained. Therefore, the possibility of verifying the object in a database and obtaining as much information about it as possible are extremely important.

Despite the decreasing number of preparatory proceedings being carried out by Border Guard officers, it needs to be noted that in this era of new threats related to historical treasures, such as forgeries of works of art and commissioned theft, and during times when works of art are treated as bargaining cards in various illegal transactions, it is necessary to constantly monitor these types of criminal activity. The priority factor, however, should be cooperation not only between law enforcement authorities, but also between entities and institutions specialising in the field of cultural treasures. This is especially significant in the context of the above-mentioned cross-border nature of the crime of smuggling.

Selected Aspects of the Search for Stolen Historical Monuments from the Perspective of the Polish Police

Marcin Goch, Mirosław Karpowicz

National Unit for Combating Crime against National Heritage, Criminal Bureau of the Polish Police Headquarters

In the last decades of the previous century, crimes against historical monuments (cultural property) have become the main form of transnational (international) organised criminal activity in many countries, next to drug-related crime, illegal arms trade and human trafficking.

Over 40 years ago, the States Parties to the UNESCO Paris Convention¹ of 17 November 1970 recognised that the illicit import, export and transfer of ownership of cultural property was one of the main causes of the impoverishment of cultural heritage in the countries of origin of such property, and that international cooperation constitutes one of the most efficient means of protecting each country's cultural property against all dangers resulting from it.

Poland, by joining the States Parties of this international "constitution" for the protection of cultural heritage, accepted the commitment of the remaining signatories that it would not tolerate the import of items of cultural property illegally exported from their countries of origin. This commitment makes the problem of smuggling works of art through export and import equally important to us.

On 3 November 2004, during an international conference in Szczytno entitled "International Cooperation between the Police, Border Guard and Customs Services in Combating Crime against Cultural Heritage", an agreement entitled "Agreement between the Minister of Finance, the Minister of Culture, the Police Commander in Chief and the Commander in Chief of



Samuel Grewe's monstrance dated 1722, stolen from the church and monastery complex at Święta Lipka, not yet recovered.

the Border Guards on the Cooperation in Fighting Illicit Export and Import of Cultural Property" was signed (Polish National Police Headquarters' Official Journal of Laws of 2004, no. 21, item 135). This document, which at the time gained recognition from representatives of various services from many European countries, in a sense anticipated the solutions later adopted by the European Union. Above all, this concerns the issue of the illegal import of historical monuments from non-EU member states. UE solutions, namely Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State and Council Regulation (EEC) No. 3911/92 of 9 December 1992 on the export of cultural property, only describe the rules of conduct in cases of the illegal transfer of historical monuments within the European Union and the uniform control of the export of these on the outer borders of the Community².

Since 2003, the Act on the Protection of Monuments and the Guardianship of Monuments has been in force in Poland (Journal of Laws of 2003, no. 162, item

1568, as amended). Article 4, paragraph 4 of this Act describes in detail the obligations of public administration bodies consisting in undertaking activities with the aim to, among others, counteract the theft, loss or illegal export of monuments. They are addressed mainly to the police, National Border Guard and Customs Service.

In Chapter 35, entitled "Crime against Property" of the new Criminal Code of 6 June 1997, the legislator introduced the term "property of significant cultural value" for the first time, legislating as qualified in Article 294 increased responsibility of those who commit crimes of theft, appropriation, fraud, destruction or damage, or those trading in stolen property which is of significant value or property of significant cultural value³. It seems, however, that the legislation is somewhat inconsistent, as this regulation does not include burglary, and our experience confirms that a decisive majority of the cases concerning historical monuments of significant value being seized were the results of burglary. Moreover, whereas in the case of ordinary theft we can talk about the so-called occasional theft, when it comes to burglary, criminals

often act with premeditation, which manifests itself in the previous reconnaissance of the future crime scene, selection of group members and the proper preparation of aids and resources – frequently to carry out a commissioned theft (theft to order).

The protection of the purchaser in good faith is doubtless a favourable condition for illegal trade in cultural property (monuments), and the national regulations in force in this respect can be used to introduce illegally obtained cultural property (monuments) into the legal market.

Generally, it needs to be said that the thefts concerned mainly objects of average class, although thefts of priceless monuments did and still do occur. The following are examples of thefts valued at thousands or millions of dollars in losses:

- » 1980, the theft of a linden tree-shaped monstrosity, unique in the whole of Europe, from the church and monastery complex at Święta Lipka (Warmian-Masurian Province) (not recovered) [Figure 1];
- » 1986, a burglary at the Gniezno Cathedral (Greater Poland Province) and irreparable destruction to St. Adalbert's sarcophagus; part of it has been recovered in the form of recast metal and broken pieces of the statue (to date, this has been the worst act of pillage, vandalism and profanation of sacred art in Poland);
- » 1987, a burglary at the church in Biecz (Lesser Poland Province) and theft of a painting depicting "The Descent from the Cross" by an unknown artist from the circle of Michelangelo (recovered a few weeks later in Poland);
- » 1990, burglaries at the Orthodox church in Jabłeczna (Lubusz Province) and theft of 15th-century icons: "The Mother of God Among the Prophets" and "St. Onuphrius", recovered in Poland four years later;
- » 1992, a 15th-century painting, "Holy Mary in the Mystical Garden", from the church in Gościeszyn (Kuyavian-Pomeranian Province) was offered for sale in Scandinavia; recovered in Poland a few years later;
- » 1994, burglary at the church in Łubowo (West Pomeranian Province) and the theft of a triptych dated 1510 (2/3 recovered in Poland, 1/3 in Germany);

Claude Monet, the "Beach at Pourville" painting dated 1882, stolen from the National Museum in Poznań in 2002, recovered in Poland in 2010



- » 2000, the theft of Claude Monet's painting "Beach in Pourville" from the National Museum in Poznań (recovered in 2010) [Figure 2];
- » 2008, the theft of Jacek Malczewski's painting, "Portrait of a Man Against a Landscape", from the Desa Unicum Auction House in Warsaw.

We could provide at least several dozen similar cases from the years 1975-2010 related to the theft of works of art from various sites, valued from several hundred thousand to several million dollars, which to date have not been recovered. And as long as there is no definitive evidence that a specific relic (monument) has been irrevocably destroyed, one has to hope that it will be recovered. After all, even if the case of a thief or burglar facing prosecution falls under the statute of limitations, it does not mean that ownership of the stolen property will be transferred and cannot be a reason for abandoning a further search – both at the national and international level⁴. Otherwise, the thieves and dealers in stolen property would be triumphant.

A decisive majority of the thefts are carried out by groups of several criminals, and there is significant participation of broadly defined criminal re-offenders. Unfortunately, the court sentences do not drive the perpetrators away, and prisons do not educate or rehabilitate them – this has been a frequent observation of numerous international symposia and conferences on criminology⁵. Still, repressive punishment remains the main means of dealing with crime perpetrators.

The quick registration of lost works of art in various systems has an immense influence on the effectiveness of the market reconnaissance⁶ and the search for the property – based, of course, on proper documentation that enables identification of the stolen goods if and when they are recovered. In their fight against crime involving works of art, the Polish police force uses a few basic databases, especially:

1. the "National Register of Historical Monuments that have been Stolen or Illegally Exported" of the National Institute of Museology and Collections Protection (formerly: The Centre for the Protection of Public Art Collections);
2. "Stolen Works of Art" of the Interpol General Secretariat; and

3. the "Catalogue of Wartime Losses" of the Ministry of Culture and National Heritage.

The "National Register of Historical Monuments that have been Stolen or Illegally Exported" remains the most important database when it comes to searches conducted in Poland. The beginnings of this central catalogue are inextricably linked with the establishment of the Centre for the Protection of Public Art Collections in 1988. The need to inventory lost cultural property led to the creation of the above-mentioned register and, since 1992, it has been kept in the form of an electronic database. Since July 2005 it has also been available via the Internet⁷. It is worth noting here that basic information about the lost objects is accessible to everyone who registers on the website. Information about stolen or illegally exported historical objects (monuments) is provided by the police, National Border Guard, Customs

Service and regional Offices for the Protection of Historical Monuments, as well as museums and private persons. The database currently contains 9,822 items (as of 4 July 2011), including 8,345 objects not yet recovered, 796 illegally exported and 681 items that have already been recovered.

The "Stolen Works of Art" database of the Interpol General Secretariat, where information is searched via the organisation's I-24/7 secure global police communications system, is extremely helpful in verifying objects of clearly foreign provenance. The user can conduct a search in one of Interpol's four working languages: English, French, Spanish and Arabic. The database is accessible to representatives of Interpol National Central Bureaus in each member country and to authorised police officers and employees. In August 2009, an online access application to the subject database was launched⁸. The right to search it can

Sculptures of the Evangelists from the 19th century, stolen from the church in Dąbrówka in 2003, recovered in 2010





In our police practice, we will more and more often have to deal with searching for and trying to recover lost cultural property in other countries, and the other way around, examples of which have been also noted in recent months”

be granted not only to representatives of law enforcement bodies, but also to employees of cultural institutions, such as ministries and museums, as well as collectors, antiquarians and employees of auction houses and other competent institutions. As a result, a dishonest seller or buyer will not be able to claim that he or she did not have the chance to check if a given object was stolen. Currently, there are approximately 37,000 items registered in the database, including 672 from Poland.

Additionally, the Polish police force uses the “Catalogue of Wartime Losses” of the Ministry of Culture and National Heritage. Since 1992, the Ministry has been inventoring data on cultural property lost as a result of World War II and making efforts to find and recover any such objects. In the wartime losses database, kept by the Department of Cultural Heritage, there are now approximately 60,000 items registered. Some of them are presented on the Ministry website’s subpage⁹.

Credit has to be given to various private individuals and institutions from the depart-

ments of culture and national heritage (the National Institute of Museology and Collections Protection and the National Heritage Board of Poland) who search through the legal and illegal cultural property market in Poland, for finding some of the stolen works of art. An overwhelming majority of the recoveries are, however, the result of the police’s operational work. In view of the predicted increase in theft and smuggling activities, their role will definitely grow. In our police practice, we will more and more often have to deal with searching for and trying to recover lost cultural property in other countries, and the other way around, examples of which have been also noted in recent months. This requires police officers to be perfectly prepared in terms of knowledge of related international regulations in effect, since even very useful individual connections cannot replace institutional cooperation.

In 2007 the Criminal Bureau of the National Police Headquarters established a National Unit for Combating Crime against National Heritage. The unit’s main tasks in-

clude, among others, analyses of the scale of risk of crimes against historical monuments, coordination of the police’s work across the country, the conducting of regular training sessions for police officers dealing with these kinds of crime, the monitoring of the art market and cooperation with international police institutions.

In the criminal departments of regional police headquarters, in every province, the task of identifying and combating this kind of crime belongs to officers, the so-called coordinators for historical monuments, who are aided by the National Unit. This unit also acts on its own initiative, which has recently led to the recovery of two Neo-Baroque sculptures that were stolen from a church in Dąbrówka (Masovian Province) in 2003 and officially offered at an auction seven years later [Figure 3]. Such activities will continue to be taken, also in cooperation with the above-mentioned partners from the departments of culture and national heritage, with the hope of recovering property lost both recently and many years ago¹⁰.

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The Role of Databases Used by the Polish Customs Service in Combating Crime against Cultural Property

Anna Skaldawska

Coordinator for protection of cultural goods at the Customs Office in Warsaw

The Polish Customs Service, usually associated with fiscal tasks and policies, carries out numerous activities related to various spheres of everyday life. As part of its jurisdiction, and in accordance with EU and national regulations, the Polish Customs Service deals with issues related to, e.g. the protection of life and health of people, the protection of life and health of the animals and plants that serve people, the protection of endangered species and the natural environment, and the protection of consumers and intellectual property rights. It also deals with the protection of historical objects and cultural property. Enforcing EU and national regulations on non-tariff restrictions is one of the main non-fiscal tasks of the customs authorities. The Polish Customs Service plays an important role in combating crime against cultural property. Its competences with regard to this kind of activity is regulated by the Customs Service Act of 27 August 2009 (Journal of Laws, No. 168, item 1323), according to which the tasks of the customs authorities include implementing customs policies as far as the import and export of goods are concerned and other tasks defined by separate regulations, in particular the identifying, uncovering, preventing and combating of crime and offences against cultural property, as defined in Art. 109 of the Act on the Protection of Monuments and the Guardianship of Monuments of 23 July 2003 (Journal of Laws, No. 162, item 1568, as amended) and in Art. 53 of the Act on National Archive Resources and Archives of 14 July 1983 (Journal of Laws of 2006, No. 97, item 673, as amended). In their present form the regulations of the Customs Service Act came into force on 31 October

2009. It should be pointed out that due to the above-mentioned Customs Service Act, Polish customs authorities gained new competences in accordance with Art. 2, section 2 – namely, carrying out preparatory proceedings according to the regulations of the Act of 6 June 1997, i.e. the Code of Criminal Procedure (Journal of Laws, No. 89, item 555, as amended). With regard to tasks defined in Art. 2, section 1, clause 6, the Polish Customs Service has the same procedural powers as the police, which result from the regulations of the Code of Criminal Procedure.

As Poland is one of EU's external border countries, the Polish Customs Service ensures that regulations on the export and import of cultural property of Poland and all other EU countries are followed.

Taking into consideration the fact that trade in stolen works of art brings huge profits to criminal organisations and that stolen works of art might be illegally transported across state borders, it needs to be noted that specialist databases are an important tool that can be used to search for and recover lost works of art¹. That is why in their everyday work, Customs Service officers use numerous databases and computer systems to streamline their actions aimed at combating crime against cultural property. These databases and computer systems serve two fundamental objectives: to check the legality of the origin of exported and imported works of art and to analyse the trends related to crime against cultural property in order to effectively prevent it.





Customs officers have access to the following national and international specialist databases of stolen and lost objects where they can check whether the object they are inspecting is included in any of the registers: these are the National Register of Historical Monuments That Have Been Stolen or Illegally Exported documented by the National Institute of Museology and Collections Protection and the Catalogue of Wartime Losses of the Ministry of Culture and National Heritage, which contains items lost during World War II.

Since 2009 Customs Service officers have had access to the Stolen Works of Art Database of the Interpol General Secretariat. This database contains information about approximately 34,000 stolen objects along with their descriptions and pictures. The Polish Customs Service also receives information about works of art stolen throughout the world through the agency of the National Police Headquarters and the Ministry of Foreign Affairs. Access to both of the above-mentioned databases and information about stolen works of art

from other sources allow for the control of cultural property by the Polish Customs Service with regard to the legality of an object's origin to be even more effective.

Customs officers wanting to effectively prevent crime against cultural property can use specialist systems and customs databases that will help them track trends in this type of crime and will aid them in developing increasingly more effective tools that can counteract such practices. The Customs Enforcement Network (CEN) database of the World Customs Organization contains information related to customs crimes from all over the world. The CEN database is of a statistical nature and does not contain nominal (personal) data. It serves as a basis for analysis, mainly with regard to new trends in illicit traffic and new concealment methods and directions, as well as for creating reports and information bulletins. In terms of this database, the project of the Regional Intelligence Liaison Office for Eastern and Central Europe (RILO ECE), located in Warsaw in the Customs Policy Department of the Polish Ministry of Finance is also worth mentioning². In 2002 RILO initiated a special project called "Obeliks" – Save Our Cultural Heritage, which was aimed at increasing customs authorities' interest in the subject of cultural heritage³. The project's objective has been to improve cooperation on a national and





When using risk analysis with reference to cultural property, it may be established which travellers and which transports of goods pose a larger risk of the illegal export of historical objects, and the trends related to the directions of export, import and transit of cultural property may be determined. The most frequently used means of transport and concealment methods can then be indicated”

international level between customs services and other organisations responsible for the protection of cultural property, and at the same time to increase overall effectiveness in combating related types of crime in the region of Eastern and Central Europe. The project has been supported by UNESCO and member countries from the region. As part of the project, special “Obeliks Reports” are published with information about the objects seized by customs officers. These data are accessible to customs officers from numerous countries with access to CEN websites.

Another very useful tool for customs officers which can be used to follow trends in criminal activity against cultural property is the CKC (Centralna Kartoteka Celna, trans. Central Customs File) of the CEN-Poland system. The system is used for the registration, circulation and collection of information about irregularities found during customs controls as well as for the basic analysis of such information and production of statistics⁴. The system constitutes IT support for customs administration personnel as it enables officers to track and follow cases of irregularities and violations of the law.

The two latter tools are a very valuable source of information that can be used to create risk analyses with regard to crime against cultural property on the national (CKC) and international (CEN) level. The Customs Service uses risk analysis as it enables the elimination of malpractice through the appropriate orientation of customs controls. Controls are carried out proportionally to the risk level, which means con-

centrating the efforts and resources of the Customs Service on real threats and on supporting entities that act legally.

When using risk analysis one may identify suspicious goods and their means of transport in a manner that will make it possible to involve the appropriate material and human resources. Risk assessment, i.e. defining the degree of probability that a given event will lead to the law being broken, is an analytical process and consists of using various techniques aimed at assessing which goods that are subject to routine customs activities have not been declared or have not been fully declared⁵.

Because the trends in various types of crime, and not only those related to cultural property, are constantly changing, the Customs Service identifies potential threats and regularly updates the risk index. When using risk analysis with reference to cultural property, it may be established which travellers and which transports of goods pose a larger risk of the illegal export of historical objects, and the trends related to the directions of export, import and transit of cultural property may be determined. The most frequently used means of transport and concealment methods can then be indicated.



It should be added that attempts to illicitly export and import historical objects can be related to stolen objects that come from illegal excavations, have been lost during wars, etc. That is why the quick exchange of information as well as cooperation between authorities involved in combating crime against cultural property seem to be key to fighting this crime and

can constitute a very important link in the process of uncovering objects that may have come from illegal sources. Frequently, a stolen historical object that has already reached the recipient might not appear on the art market for a long time. That is why customs controls often turn out to be the last convenient opportunity to reveal such objects.

Nowadays, effectively combating illegal trafficking in cultural property without using tools such as national and international databases and computer systems seems to be impossible. Thus, by being able to use these tools in their everyday work customs officers make every effort to prevent this type of criminal activity.

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Catalogue of Wartime Losses Documented by the Ministry of Culture and National Heritage

Elżbieta Rogowska, Karina Chabowska

The Ministry of Culture and National Heritage, The Department of Cultural Heritage

The genesis of an electronic register containing information about cultural property lost during (and as a result of) World War II¹, dates back to the early 1990s, when the Office of the Government Plenipotentiary for Polish Cultural Heritage Abroad was founded within the Ministry of Culture and Art. It must be emphasised that establishing the Office was connected with a change of Poland's political system and with restitutive issues (perhaps a reborn interest in them?) which had not been present in Poland since the 1950s. In 2001 the responsibilities of the plenipotentiary were taken over by the Minister of Culture, and work was continued by the Department of Polish Cultural Heritage Abroad, currently the Department of Cultural Heritage.

Information about lost historical objects is being gathered thanks to the assistance of several dozen partners, historians, art historians, museologists and enthusiasts, who prepare records of lost cultural property on the basis of preliminary surveys of library and archival

resources. An invaluable source of knowledge about the fate of Polish cultural property that was moved abroad has been the preliminary archival research activity conducted in Russia, Germany, Austria, the Czech Republic, France and the United States. All material acquired in this manner is being entered into the database, which enables a swift and complex search of objects that have been divided into 23 sections; such as painting, sculpture, graphic arts, goldsmithery and fabrics, as well as military and archaeological items or textiles (Photo 1). Currently, the database holds about 60 000 objects lost by private persons, museums and church institutions. It has been possible to gather iconographic documentation for over 13 000 of them. Every year the database is enriched by another several hundred to several thousand movable monuments (historical objects). The records in the database are similar to museum records. Apart from the basic data, such as the section, description of the type of object, author, technique, and date of creation, the records

also contain information about the owners, history of the object until it was lost, how it was lost and the choice of sources according to which it will be possible to efficiently prepare a full Declaration of Restitution.

Using the database, the general public and restitutive work

Assuming that it is necessary to disseminate the image of a work of art being searched for is the first step to recovering it, the Ministry has undertaken a number of activities to disseminate information about wartime losses to the general public.

Lost monuments with the best documentation have been published on the Ministry's special website, www.mkidn.gov.pl/kolekcje, which is dedicated to the above-mentioned issues (Photo 2). The website is accessible to the general public and has been entirely translated into English. It must be emphasised, however, that despite the fact that it is being systematically supplemented, it constitutes

Sample item card – Francesco Guardi's Palace Steps, from the National Museum collection in Warsaw



The website of the Ministry of Culture and National Heritage



“

Currently, the database holds about 60 000 objects lost by private persons, museums and church institutions. It has been possible to gather iconographic documentation for over 13 000 of them”



only a fraction of a much more extensive database. Information about Polish wartime losses has also been published on the website of the National Institute of Museology and Collections Protection of the Polish Embassy in Washington, D.C. and on the website of the Central Registry of Information on Looted Cultural Property 1933-1945. Some objects, which are likely to be put on sale on the international antiquarian market, have been entered into the database of Stolen Works of Art run by the Interpol General Secretariat.

The register is also an indispensable database of acquired information to be used during the preparation of catalogues of wartime losses. A total of 17 issues have already been published in a series prepared by the Department of Cultural Heritage entitled *The Losses of Polish Culture*. Information about the website and printed catalogues have been sent to the largest auction houses in the world, Poland's most important diplomatic missions, foreign cultural and government institutions and non-governmental organisations involved in provenance research.

All of the above-mentioned activities undertaken by the Ministry have constituted the beginnings of restitutive action and the foundations of endeavours to recover the found objects. In this scope, the Ministry has been continuously collaborating with the Combating Crime Against Cultural Heritage Unit of the Polish National Police, as well as with Polish diplomatic and consular posts. Invaluable help has also been offered by museums and other institutions which stored the objects in their collections until the outbreak of World War II.

Thanks to the efforts of the Ministry, a number of valuable movable monuments (historical objects) have returned to Poland in recent years. One of them is the great Portrait of Karol Podlewski, painted by Jan Matejko, which was stolen from the National Museum in Warsaw and identified on the basis of information published on the Ministry's website (Photo 3).

Jan Matejko's Portrait of Karol Podlewski, recovered from the USA

ENDNOTES

1. Moved from the area enclosed within Polish borders after 1945

Crime against Heritage in Europe – the Role and Tasks of the Customs Service

Bjørgulf Andersen

Adviser, Norwegian Customs and Excise

Having ratified the UNESCO 1970 Convention as well as the UNIDROIT and Hague Conventions, Norway is obliged to prevent, detect and combat illicit trade in cultural heritage. One of the important tasks of the Customs Service is preventing the illegal import and export of works of art and historical monuments and objects.

Today we are facing new challenges in terms of the protection of cultural heritage. Previously, the main objective was to protect the country's own national heritage, and this task certainly still is and will remain very important. Now, however, we need to focus on the protection of our shared, global cultural heritage.

One of the effects of globalisation includes strengthened relations between countries. The Internet creates favourable conditions and new ways of exchanging information and services. Art and cultural heritage are popular objects of investment, and the reasons for investing in art and cultural heritage vary:

- » on the one hand, there are "collectors committed to the matter" who believe that they need to aim at preserving and protecting objects of heritage for future generations,
- » on the other hand, there are the "investors" who search for objects that might bring them high profits in the near future or for objects that they will be able to use as a cover for other transactions in order to avoid taxation.

Thefts of works of art and cultural property from churches, mosques, museums, collections, etc. are a challenge to the police and customs services. Illicit trade in art and heritage is a type of activity that is very unlikely to be uncovered, that is punishable by mild sentences and which provides opportunities for high profits. This type of crime may be used as a funding source for international criminal organisations.

The Customs Service monitors and inspects property imported into and exported out of Norway. Such control is based on the self-declaration principle, which is, in turn, based on trust. The challenge that the Customs Service faces lies in the accurate selection of objects that need to be inspected more closely.

In the case of finding works of art or cultural property that someone is trying to import into or export out of Norway without appropriate documentation, Customs Service officers seize such objects in order for the Ministry of Culture, sometimes in cooperation with Norwegian or international institutions dealing with the protection of cultural heritage, to make a decision requiring that the objects be returned.

- » Norwegian cultural property, protected on the basis of the National Heritage Act, cannot be exported without a licence issued by a national institution designated by the Ministry of Culture.
- » Works of art and historical monuments and objects from other

countries which are likely to have been purchased against the provisions of international agreements and conventions cannot be imported into Norway unless the importer presents the necessary documentation proving that such property has been purchased legally and exported in accordance with the provisions of the National Heritage Act of the country of export. The relevant legislation is available in the UNESCO database of legal acts or on the website of the Ministry of Culture of the country of export.

International cooperation requires better coordination. That is why closer cooperation between the ministries of individual countries is so important. Issues concerning illicit trade in cultural property are often complicated and require much time and significant resources. In some cases we were forced to establish contact with the country of export through the agency of an embassy or consulate. We lack procedures that would specify the mode of conduct in such instances.





International cooperation requires better coordination. That is why closer cooperation between the ministries of individual countries is so important. Issues concerning illicit trade in cultural property are often complicated and require much time and significant resources”

When a crime is detected, the police and law enforcement agencies need to be notified. Crime and offences against the provisions of the Norwegian National Heritage Act and international conventions are reported by the Customs Service in close cooperation with Arts Council Norway (Norsk kulturråd), the Ministry of Culture and the police.

The Customs Service also informs the Ministry of Culture on the necessity of issu-

ing a decision to seize and secure objects, the normal storage of which could be dangerous. Any demands concerning the return of stolen or illegally obtained works of art and historical objects should be directed to the Ministry of Culture.

If there is any suspicion of a work of art or historical object having been obtained illegally, the Customs Service is required to notify the police (Økokrim – the National Authority for Investigation and Prosecution of

Economic and Environmental Crime in Norway). The police checks whether the object is included as stolen in the Art Loss Register or the “Stolen Works of Art” database of the Interpol General Secretariat and takes appropriate action. In some cases the police turns to the Norwegian institutions dealing with issues related to cultural heritage.

We need to join forces in the struggle against illicit trade in cultural property on the national and international level!

Cooperation between services combating crimes against cultural heritage and institutions specialising in monument protection

Bartosz Skaldawski

Deputy Director, National Heritage Board of Poland

Polish-Norwegian cooperation within the framework of the project entitled “Legal and illegal trade in cultural property. Research and educational platform for the exchange of experience in the prevention of crimes against cultural heritage” has resulted in, among others, meetings of experts from both countries specialising in cultural heritage protection and the combating of crime against cultural property. The aim of these meetings was to exchange experience and knowledge regarding effective methods of monument protection and crime prevention used in both countries.

One such meeting was held in Oslo on 14 January 2011. Experts participating in this meeting exchanged opinions on social communication, improvement of specialist competence in the prevention of crimes against cultural heritage and information about digital databases to be used by officers combating illegal trade in cultural property.

During the meeting it was concluded that those who break the law regulating trading in cultural property can be divided into two groups. The first group, which is definitely larger, consists of those participants of the cultural property market who, unaware of the existing regulations, break the law unintentionally. The best method for counteracting this type of crime is to improve social awareness of the current laws and to promote the ethical rules regulating the cultural property trade market.

The second group consists of offenders who consciously break the law. This

group is smaller but constitutes a much more serious threat to cultural heritage. These offenders aim for the most valuable objects with the highest historic or artistic qualities. At the same time, when planning their activities, they try to minimise the opportunities for their activity to be detected, which makes it difficult to combat this type of crime.

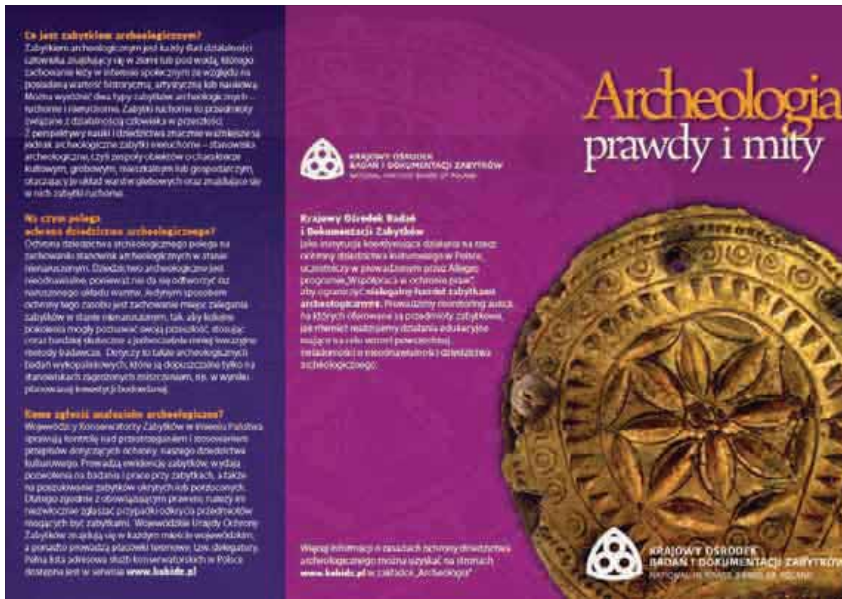
Activities aimed at increasing social awareness effectively prevent illegal trade in cultural property within the former group, but they are not an effective

method for combating crimes committed by those who deliberately break the law. It is worth remembering that criminal activity related to trading in cultural property is a major source of income for international organised crime, together with the illegal trafficking of drugs, weapons and people. The only effective method for combating such crime are the operational activities of specialist services.

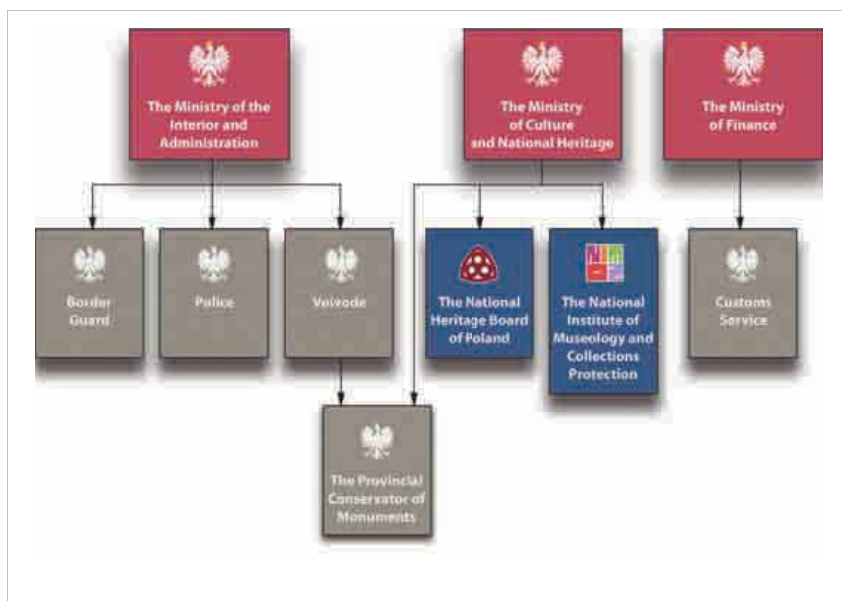
Combating criminal activity connected with cultural property requires knowledge of the art market and extensive knowledge

A meeting of experts from Poland and Norway organized in Oslo as part of the “Legal and illicit trade of cultural property” project





The best method for combating crime against cultural heritage committed by unaware citizens lies in activities that aim at raising awareness of the legislation in force. A leaflet published and distributed by the National Heritage Board of Poland regards the legal regulations on conducting searches for archaeological monuments



An outline of the administrative system of the protection of historical monuments in Poland. All of the entities subject to the system are involved in cooperation aimed at increasing the effectiveness of the fight against illicit trade in cultural property

of the history of art, archaeology and cultural heritage. Officers of the uniformed services engaged in combating this type of crime do not always have a sufficient level of such knowledge to protect cultural heritage effectively against criminals. Therefore, the key prerequisite for the successful

protection of cultural property against this threat is adequate cooperation between the uniformed services authorised to combat crime and specialised in appropriate operational activities and institutions specialising in the management and protection of monuments and works of art whose

specialists have the relevant knowledge and can support the officers' operational activities with their expertise.

The exchange of views and experiences between the experts during the Oslo meeting led them to the conclusion that cooperation between both the uniformed services combating crime and institutions specialising in the protection of cultural heritage should be carried out on three levels in order to produce the best results. At the highest inter-ministry level, the aim of cooperation should be to ensure the will of all the interested parties to cooperate, establish a legal framework, determine procedures and formulate detailed aims of co-operation at lower levels. At the lower institutional level, the joint activities of the uniformed services and expert institutions in the field of cultural heritage should focus on preparing and implementing training programs for all interested officers as well as creating and putting at the disposal of the crime-combating parties all tools necessary to improve the officers' competence and, consequently, the efficiency of their operational activities. Cooperation should also be carried out at the lowest level, i.e. the personal level – in this case it should be based on regular contact between cooperating police officers, customs officers or officers of other crime-combating services on the one hand and representatives of the institutions engaged in the protection of heritage, provision of emergency assistance in operational activities regarding expert opinions and exchange of experiences and knowledge on the other.

The model of cooperation implemented in Poland can serve as an example of extensive and multidimensional cooperation between various institutions for the purpose of counteracting and combating crime.

All cooperating institutions report to three ministries, and in some cases their activities are organised by local government bodies. Services that specialise in combating crime include the police and the Border Guard, which report to the Ministry of the Interior and Administration and the Customs Service supervised by the Ministry of Finance. Another body included in this cooperation, although to a very limited extent, is the Central Anti-Corruption Office. The institutions that provide expert

knowledge concerning monuments and cultural objects are the National Heritage Board of Poland, the National Institute of Museology and Collections Protection, Provincial Conservators of Monuments as well as some museums and, less frequently, research institutes. The organiser of both the Institutes is the Minister of Culture and National Heritage, who also conducts substantive supervision over the activities of the Provincial Conservators of Monuments, which form part of an integrated administration¹ and report directly to the Provincial Governor. The crime-combating activities of the officers are also supported by employees of national museums reporting to the Ministry of Culture and National Heritage as well as by some local museums reporting to relevant local government bodies.

A more detailed description of the co-operation model functioning in Poland may be started from the highest level – i.e. the inter-ministry level. As a result of declaring the will to cooperate at the level of the Ministry of Culture (currently the Ministry of Culture and National Heritage), Ministry of Finance, Central Police Headquarters and Central Headquarters of the Border Guard, a cooperation agreement was signed.

The Agreement reached on 3 November 2004 between the Minister of Finance, Minister of Culture, Chief Commanding Officer of the Police and Chief Commanding Officer of the Border Guard with regard to cooperation in combating the illegal import and export of historical objects (Official Journal of the Central Police Headquarters No. 21/2004, item 135) specifies the conditions of mutual support regarding control activities, exchange of information and training and exchange of experiences.



The Atlas of Endangered Archaeological Monuments, prepared by the National Heritage Board of Poland, should help police officers select areas for preventive patrols. The aim of the project is to prevent illegal excavations of archaeological monuments

The Agreement also specifies the individuals responsible for the cooperation: the Ministry of Finance cooperates through the Director of the Customs Control Department in the Ministry of Finance and the Directors of Customs Chambers. The Ministry of Culture is engaged in cooperation with the help of the Director of the Monument Protection Department and the Director of the Centre for the Protection of Public Art Collections (currently the National Institute of Museology and Collections Protection and the Provincial Conservators of Monuments). The Ministry of the Interior is involved in the implementation of the provisions of the agreement with the help of the Director of the Crime Combating Tactics Bureau of the Central Police Headquarters, the Provincial Commanding Officers of the Police and the Director of Operation and Investigation Management of the Central Fire Service Headquarters and Commanding Officers of the Border Guard Divisions. The agreement also specifies the forms and scope of cooperation. According to the agreement, cooperation may include, among others:

- » setting-up of joint task forces to establish principles of cooperation
- » determining the principles of dealing with historical objects confiscated by customs and Border Guard authorities
- » preventing the export of historical objects without required authorisation by customs authorities and Border Guard authorities
- » mutual support regarding the identification of historical objects that are suspected to have been lost as a result of crime
- » disclosure of cases of export or import of historical objects without required authorisation or the failure to bring a historical object into the country during the validity period of the authorisation
- » notification of any errors occurring in documents related to the import or export of historical objects
- » exchange of information about historical objects that were entered into the national list of historical objects and have been stolen or illegally exported



A search engine for archaeological sites included in the Atlas of Endangered Archaeological Monuments

» mutual notification of problems occurring within the scope of the Agreement.

Apart from these, the Agreement emphasises the need to elaborate and implement a system of rapid information flow between the parties, and it also provides a legal basis for the organisation of joint training courses for the purpose of increasing knowledge and improving the parties' skills in protecting historical objects and monuments.

Due to the range of competences of all its parties, the Agreement has a precisely specified and restricted thematic scope and regulates only cooperation regarding combating the illegal export or import of historical objects. The document, dated 3 November 2004, did not constitute a sufficient legal basis for cooperation between the uniformed services and institutions specialising in the protection of cultural heritage in situations not related to the il-



legal cross-border transit of historical objects, therefore, another agreement was soon signed.

The Agreement between the General Conservator of Monuments and the Chief Commanding Officer of the Police on 10 March 2005 regarding cooperation in the prevention and combating of crime committed against monuments (Official Journal of the Central Police Headquarters No. 6/2005, item 29) covers a considerably larger scope. It determines three areas of cooperation: exchange of information, co-ordination of activities in cases justified by the need to provide effective protection of monuments, the urgent need to obtain mutual support for activities preventing the loss of monuments or historical objects, or aimed at recovering lost historical objects, and improvement of the methodology of protecting these types of objects. According to the provisions of the Agreement of 2005, persons responsible for cooperation include, at the Polish national level, the heads of organisational units of the Central Police Headquarters and the Directors of the Monument Protection Department in the Ministry of Culture, the Centre for the Protection of Public Art Collections (currently the National Institute of Museology and Collections Protection), the National Heritage Board of Poland and the Centre for the Protection of Archaeological Heritage (in 2007, by decision of the Minister of Culture and National Heritage, the NHBP and the CPAH merged and on 1 January 2011 the original Polish name of the NHBP was changed). The Agreement also gives the possibility for cooperation at a regional level, where persons designated for cooperation include chief commanding officers of organisational units of the Police, Provincial Conservators of Monuments and heads of regional National Heritage Boards (currently Local Divisions of the National Heritage Board of Poland).

The exchange of information, according to the Agreement, is carried out mainly between the Centre for the Protection of Public Art Collections (CPPAC) and the Crime Combating Tactics Bureau of the Central Police Headquarters. The Director of the CPPAC is obliged to provide information concerning illegal activities which constitute a threat to historical objects as well as activities undertaken for the purpose

of the recovery of historical objects that were illegally exported from or imported into Poland. The Director of the CPPAC also submits information about planned relocations of particularly valuable historical objects and presents annual analyses of the state of protection of museums and other organisational units storing historical objects which are supervised by the Ministry of Culture and National Heritage. The Director of the Crime Combating Tactics Bureau of the Central Police Headquarters is obliged to submit information concerning serious deficiencies in the protection of historical objects against loss, destruction or damage as well as annual analyses of the potential dangers of crimes being committed against monuments. Both parties also exchange information concerning stolen or lost historical objects.

Cooperation between all institutions, as indicated in the Agreement, may also be based on working contacts (including mutual consultations, current exchange of information and setting-up of joint co-ordination teams) that are aimed towards the performance of control activities by the institutions responsible for monument protection at the request of the police. The police may also provide support during the transport of historical objects. In addition, the parties undertake to exchange conceptual studies and training materials regarding general care of monuments and historical objects and the counteracting and combating of monument-related crimes. The parties may also organise joint training courses for police officers and employees of monument protection offices.

Even a very superficial analysis of the concluded agreements shows that the intention of the signatory parties was to create a clear and transparent legal basis for cooperation and to initiate this cooperation at the institutional level. Both agreements very precisely specify the bodies responsible for cooperation as well as the thematic scope, procedures and forms of cooperation. The said documents seem to implement the aims of cooperation to the necessary extent at the highest level.

As a result of ministerial activities concluded by the signature of these agreements, cooperation at the institutional level was started or formalised in cases where it had already been previously undertaken in



A handbook for police officers prepared and provided to the National Police Headquarters by the National Heritage Board of Poland. The handbook contains a compendium of relevant information on archaeology and the law that police officers need in their operational work



An inspection in one of Warsaw's galleries revealed that archaeological monuments put up for sale came from illegal excavations. The owner of the gallery was unaware of the legal regulations in force

a less formal manner. In the case of institutions combating and counteracting crime, a key role in the onset of cooperation with institutions specialising in the protection of monuments and historical objects is played by the coordinators for the protection of monuments or, in general, cultural prop-

erty. Such specialised functions exist at the level of the provincial headquarters of the police and the Border Guard and at the level of customs chambers in the Customs Service. Moreover, on 25 June 2007 a national team to combat crimes against national heritage was established in the



Central Police Headquarters. This team deals with the centralised protection of monuments and historical objects against crime-related threats. At the same time, tasks related to cooperation with the uniformed services resulting from agreements concluded in 2004 and 2005 became one of the priority activities of the National Heritage Board of Poland, the Centre for the Protection of Archaeological Heritage (which later became a part of the NHBP), the Centre for the Protection of Public Art Collections (currently the National Institute of Museology and Collections Protection) and other institutions involved in the protection of monuments.

The main function of cooperation between the uniformed services and institutions specialising in the protection of monuments at the institutional level is the exchange of information and provision of specialised knowledge about monuments, historical objects and cultural property to officers of the police, Border Guard and Customs Service. The aim of this cooperation is to increase the effectiveness of counteracting and combating crimes against cultural heritage and, consequently, to improve the level of monument protection.

Training courses organised for representatives of the police, Border Guard and

Customs Service are the most important way of improving officer competences in counteracting crimes against cultural heritage by providing them with specialised knowledge. From 2007 to 2010 the National Heritage Board of Poland trained over 300 uniformed service officers. The subject-matter of those training courses was: the legal basis for the prosecution of crimes against monuments and historical objects, the principles of a conservator's protection of monuments and historical objects and the basis of recognising archaeological monuments and objects. The aim of the training courses was to improve the effectiveness of protecting archaeological monuments and objects, which had been ignored in the operational activities of the police and other uniformed services. At the same time, the National Institute of Museology and Collections Protection (formerly the Centre for the Protection of Public Art Collections) conducted training courses that focused mainly on the protection of movable cultural property, i.e. historical objects and works of art. These training courses were accompanied by speeches made by representatives of the NHBP, the NIMCP, monument protection offices and museums and research institutes during seminars and industry conferences when provided with an invitation from the police and the Customs Service.





It is worth remembering that criminal activity related to trading in cultural property is a major source of income for international organised crime, together with the illegal trafficking of drugs, weapons and people”

Another form of providing expertise and improving the competences of the uniformed services in the protection of monuments is the preparation of training materials and handbooks by expert institutions (NHBP, NIMCP) and making them available to officers for official use, and the publication of articles in the industry brochures of the police. Specialised industry magazines play a considerable role in this field, too, e.g. one that deserves particular mention here is the publication entitled “Cenne, bezcenne, utracone” (“Valuable, Invaluable, Lost”) issued by the National Institute of Museology and Collections Protection.

Apart from providing expertise, a very important area of cooperation at the institutional level is the exchange of information which improves the effectiveness of combating crime against cultural heritage. In this respect, a key role is played by Internet databases, such as the national list of stolen or illegally exported historical objects maintained by the NIMCP and the catalogue of objects lost as a result of World War II administered by the Ministry of Culture and National Heritage. Both databases are continuously available to officers on the Internet, thus helping them to identify objects of illegal origin encountered during operational activities. Another activity in the field of information exchange is that of monitoring the market of archaeological historic objects by experts from the NHBP and reporting suspected crimes to the police.

Apart from the training courses and information exchange, the third area of cooperation at the institutional level is cooperation in preparatory and procedural activities. Representatives of expert institutes (NHBP, NIMCP), Provincial Conservators of Monuments, museums, and research and university institutes prepare expertise and opinion reports concerning monuments and works of art as well as reports on their authenticity, historic and financial value at the request of the police, Border Guard and Customs Service.

Cooperation between the uniformed services and monument protection sector includes not only the combating of crime, but also its prevention. An example of such activity is the Safe Collections

program implemented both by the National Institute of Museology and Collections Protection and by the police. The aim of the program is to encourage owners of collections, including individuals, to document their cultural objects properly so that they may be identified in case of theft or loss. The proper documentation of a missing object is essential for a quick recovery of a stolen historic object or work of art. The police, Border Guard, Customs Service, National Heritage Board of Poland and National Institute of Museology and Collections Protection as well as Provincial Monument Protection Offices also participate in the inter-ministry prevention program called Safer Together. One of the distinct areas of activity under this program is the protection of national heritage. In this field, the program is aimed at counteracting the systematic destruction of national heritage all over the country. The program covers the protection of objects such as wooden historic churches. Preventative activities are undertaken against theft, destruction, loss, illegal export and fire.

Activities undertaken under the Safer Together program are focused on joint inspections and checks of objects of collected cultural property combined with the systemic registration of collections along with their photographs and descriptions, including the marking of movable objects. The program is also carried out by raising awareness of modern technical protection measures, both in the event of natural disasters and human criminal activity. The program has also introduced a central system of information for permits issued to export historic objects.

A very important result of cooperation at the institutional level, especially the training courses conducted for uniformed service officers by representatives of institutions specialising in the protection of heritage, is the establishment of direct interpersonal contacts between police, customs and border guard officers and experts in the history of art, archaeology, cultural heritage and other branches of science related to monuments and cultural objects. Contacts established thanks to this inter-institutional cooperation give the opportunity of being able to cooperate on an ongoing basis between the uniformed service officers and representatives of the National Heritage Board of Poland, the National Institute of Museology and Collections Protection and the Provincial Conservators of Monuments, some museums, research and university institutes. Cooperation at the lowest level is based, for example, on regular consultations in matters handled by officers and preliminary opinions regarding the identification of objects. At the request of the police or the Customs Service, the representatives of expert institutions also participate in operational activities, accompany officers during site inspections, checks or searches and contribute their knowledge on an ongoing basis. The prerequisite for effective interpersonal cooperation is, on the one hand, being aware of the need for specialised knowledge among officers of the police, Border Guard and Customs Service at the operational level and having them meet with experts and specialists whose knowledge could be used. On the other hand, specialists from institutions specialising in monument protection

who want to support officers with their knowledge should be constantly available. Because of the nature of their operational work, officers who carry out operational activities should be able to receive support from, and at least telephone consultation with, a relevant specialist within a few hours.

The system of cooperation for the prevention of crime against cultural heri-

tage in Poland functions at all three levels, yet several suggestions can be made for further improvement of cooperation. Firstly, cooperation between current partners should continue to be developed. Secondly, cooperation with other partners, e.g. judges and prosecutors, should commence. One of the requests from various institutions concerns the establishment of an inter-ministry team

for the combating of crimes against cultural heritage. The activities of this team would be aimed at coordinating cooperation and improving the system of information exchange. We hope that such a team will ultimately be established and that its functioning will improve cooperation even further at the inter-institutional and interpersonal level.



Protection project against crime and fire for historical wooden churches

Piotr Ogrodzki

The National Institute of Museology and Collections Protection

Religious monuments are invaluable to Poland's cultural heritage. Due to the country's tangled history, this category of monuments comprises the largest number of movable monuments representing all periods of history that can be found outside museums. Their importance to the national identity can hardly be overestimated. The history of Poland constitutes the history of numerous ethnic groups and peoples, who for years lived and developed side by side and whose cultures were largely interwoven. The largest group of religious monuments are those of the Roman Catholic Church, the oldest of which date back to the 12th and 13th centuries (e.g. churches in Tum, Strzelno, Kraków and Tyniec). Many of these buildings are on UNESCO's World Heritage list (e.g. churches located in the historic centres of Kraków, Warsaw, Zamość and Toruń).

Wooden structures hold a special place among these religious monuments. Beautifully integrated into the historical landscape, they stand as extraordinary testimonies to their builders' exceptional craftsmanship. Despite this construction material's extreme fragility, the numerous natural haz-

ards and countless wars waged in Poland over the last 300 years, over 2000 sacred wooden structures have managed to survive until the beginning of the 21st century. Many of these structures have also retained their original and unique interior furnishings. This coexistence of cultures has allowed for Roman Catholic churches and chapels to stand alongside Greek Catholic and Orthodox temples, Protestant churches and Muslim mosques. Only the Jewish synagogues are missing. Unfortunately, the wooden synagogues which once dotted the landscape of small towns were all destroyed by the Nazis during the Second World War. The photographs that have survived allow us to imagine how beautiful these structures must have been.

The exceptional character of these wooden monuments in Poland has not gone unrecognized, and the structures have been included on the UNESCO World Heritage list. In 2001, two 17th century Churches of Peace in Świdnica and Jawor were added to the list as the only churches of their kind to have survived in Europe. The central nave of the church in Świdnica is 44m long and 20m wide, and with nearly 3000 seats the structure could

once hold up to 7500 worshippers. The church in Jawor is of similar dimensions. The six oldest wooden churches of Lesser Poland (in Dębno Podhalańskie, Binarowa, Blizne, Haczów, Lipnica Murowana and Sękowa) were listed in 2003. The oldest among them date back to the 15th century.

While the number of preserved churches may seem considerable and their future secure, the situation is actually far more complicated. The fragility of the building material (wood), natural hazards and air pollution are beginning to take their toll, and the destructive activity of man are all contributing to a steady decrease in the number of wooden monuments of sacred architecture. The damage varies in scope from one church to another – in extreme cases (e.g. fire), entire structures along with their furnishings are destroyed.

These alarming phenomena were first observed many years ago. Established in the mid-1980s, the Centre for the Protection of Public Collections (later transformed into the National Institute of Museology and Collections' Protection by decision of the Minister of Culture and National Heritage on the 1st of March 2011) made it



The adequate preparation of priests and monument caretakers is fundamental for any substantial improvement in the level of protection and safety. It is not possible to work on a building without the assistance of its owner or caretaker"

a matter of priority to reduce some of the hazards, especially those posed by fire and crime. At the same time, measures taken to improve the preservation of the structures, conservation of polychrome elements and condition of the historical furnishings were also implemented. One of the great champions of saving and preserving wooden sacred architecture was Dr. Marian Kornecki, who passed away in 2001. Thanks to the enlistment of local circles, involvement of social organisations and societies, support provided by monument protection services, the understanding attitude of the central government and its appreciation of the seriousness of the problem, it was possible to carry out well-orchestrated operations aimed at enhancing the preservation and proper safeguarding of the most valuable wooden churches.

Systematic measures were undertaken to protect wooden monuments from fire and crime. Year after year, small, inadequately protected churches, often situated off main roads, had fallen victim to crime, including acts of vandalism, theft and arson. As a result, non-movable structures were

damaged and many elements of original church furnishings had been lost. If fires had broken out, entire structures along with their interiors were often reduced to ashes.

Due to the disadvantageous legal situation, state funds available for safeguarding and protection were very limited (no such problems existed with respect to typical conservation and restoration projects). In 2003, the laws concerning the protection of monuments in Poland were amended and the situation improved. The new Act on the Protection of Monuments and the Guardianship of Monuments expanded the catalogue of projects which could receive funding from the state. Thanks to these changes, resources assigned to monument protection could now be used to purchase and install fire safety and anti-theft devices. New regulations finally made it possible to draw up comprehensive programs for the protection of wooden churches.

Activities designed to safeguard and protect wooden monuments of sacred architecture from fire and crime largely focus on:

- » educating and training priests and monument caretakers
- » coordinating checks and inspections conducted jointly by the voivodship (province) conservators of monuments, diocesan conservators, the police, the fire brigade and the building control inspectorate
- » documenting and labelling movable monuments found in sacred structures
- » designing and installing state-of-the-art fire and crime protection systems.

Apart from safeguarding churches against fire and crime, systematic checks of the wooden structures have been conducted for many years to determine their condition and for conservation and restoration purposes. The scope of action to be taken in each individual case is decided upon by the provincial conservator of monuments. In most cases, individual programs last several years and encompass all elements necessary for the wooden structure's functioning.

Educating and training priests and monument caretakers

The adequate preparation of priests and monument caretakers is fundamental for any substantial improvement in the level of protection and safety. It is not possible to work on a building without the assistance of its owner or caretaker. If they are not convinced about the necessity of carrying out the proposed measures and their assistance is not enlisted, our actions will be largely ineffective. In the project's framework aimed at safeguarding sacred monuments, we managed to secure the cooperation of bishops in individual dioceses. At the local level, actions were taken by provincial conservators; at the national level, in turn, they were spearheaded by the National Heritage Board and the National Institute of Museology and Collections' Protection. In order to help priests appreciate the challenges of the proper protection of a monument, the Centre for the Protection of Public Collections issued a manual entitled *The guide to safeguarding sacred buildings*, which provides a lucid discussion of the issues surrounding the protection of monuments and their safeguarding against fire and crime. The manual, along with other relevant publications, was



handed out free of charge during training courses. These systematic educational activities have already borne fruit and priests have come to show greater understanding and are more open to the tasks related to protecting and safeguarding the wooden monuments. They are also more willing to adapt to new organisational and technical solutions. Similar training projects, but of a different scope, were also organised for members of the national monument protection service. The objective was to present state-of-the-art technical solutions which could be used to safeguard monuments against fire and crime (the National Institute of Museology and Collections Protection is responsible for these activities).

Coordinating checks and inspections conducted jointly by the provincial conservators of monuments, diocesan conservators, the police, the fire brigade and the building control inspectorate

If it is to be implemented, the program must first correctly identify the specific challenges related to the protection and safeguarding of individual historical structures. In order to arrive at a comprehensive assessment, it is necessary to enlist the cooperation of numerous

experts. Checks and inspections have therefore been designed to be carried out jointly by provincial conservators, diocesan conservators, the police, the fire brigade and the building control inspectorate. Work is initiated and coordinated by the provincial conservator. The bishop, i.e. the head of the local church, is in turn represented by the diocesan conservator of monuments. Representatives from the police, the fire brigade and the building control inspectorate, each according to their field of expertise, are also expected to provide support. The team produces a final report in which the current level of protection is discussed in detail, failings are identified and possible changes and improvements are suggested. The report then serves as the basis for a customised repair program and helps priests to draw up appropriate guidelines.

Activities of this kind have already been taken in Poland for more than ten years. Ten to several dozen structures are examined every year. After some time, the team returns to the site in question and conducts a follow-up assessment to determine what was improved and what still needs to be done.

Visual documentation and the labelling of movable monuments

Robberies of historical objects from sacred buildings have revealed inadequa-

ties in the visual documentation of relics inside churches and chapels. It turned out that information available to the police was very scarce and lacking in many important details which could have proved helpful in the search for and identification of the missing objects. Granted, information charts stored in monument registries run by provincial conservators gave quite detailed descriptions of the objects, however, visual documentation was generally inadequate and did not include any photographs showing characteristic features or details. For instance, an altar listed in the registry was only shown on a general plan. The thieves, on the other hand, stole individual altar elements, such as sculptures, paintings and fragments of the woodcarving, which were so indistinct in the photograph that their identification was nearly impossible. A change in the way movable relics are documented came with the advent of digital photography, as the new technology helped to reduce the costs connected with taking pictures. Many provinces set up teams consisting of monument protection officials and the police, whose task was to create an exhaustive collection of visual documentation of movable relics comprising parts of the sacred monuments. The photographs were accompanied by the





additional labelling of relics. The project has already come to an end in some provinces (e.g. in the Podlaskie Province over 10,000 movable relics were documented and labelled).

Designing and installing state-of-the-art fire and crime protection systems

The last step in the program aimed at protecting and safeguarding sacred wooden structures against fire and crime involves designing and installing state-of-the-art fire alarm systems, anti-theft systems and fixed fire-extinguishing devices. The introduction of advanced technology to enhance the protection of monuments from fire and crime is a matter of necessity. The process has become more systematic after 2003, when new regulations allowed state subsidies to be used to design and install the systems in question. Thanks to the coor-

dinated efforts of provincial conservators, church owners, the National Institute of Museology and Collections Protection and the Ministry of Culture and National Heritage, several dozen wooden churches are now safeguarded every year. Poland's accession to the European Union opened up new windows of opportunity for obtaining funds which could be used to enhance the protection of sacred monuments. EU subsidies were used to safeguard nearly 80 historical wooden churches in two large dioceses with priority given to fire safety. Fire alarm systems are now part of the standard equipment of all the sacred churches deemed especially valuable by provincial conservators. Thanks to the guidelines drawn up by the National Institute of Museology and Collections Protection, the choice of appropriate technical solutions is no longer a problem. Particularly valuable structures are additionally fitted with permanent water mist-based fire extinguishing devices, which protect the structure from the outside. The technology, which was first developed in 2003 in Poland, is used to protect nearly 50 of the most valuable structures.

As far as crime protection is concerned, anti-theft alarm systems are now widely used alongside surveillance cameras. The guidelines for using these systems were also drawn up by the National Institute of Museology and Collections Protection.

Systematic, coordinated, long-term activities taken to reduce the crime and fire hazards posed to sacred structures have brought substantial benefits. The number

of crimes has fallen considerably in recent years and the incidence of large fires causing destruction to the entire building has decreased. Passive and active means of fire protection have proved to be optimal and effective.

The experience of more than ten years in the protection of sacred wooden architecture has shown that desired outcomes require many years of systematic action, including the education and training of owners and users as well as the creation of funding sources for the purchase and installation of state-of-the-art technology and close cooperation between services, institutions and associations. The model is being systematically developed and supplemented, and as dangers change, priorities are adjusted. Keeping track of developments in the protection systems helps to find ever better and more efficient solutions and to adapt them for the purposes of monument protection. The temporary administrators of the sacred buildings require constant education and training. With all these factors in mind, it is impossible to define the time frame for the sacred monument protection program. The word "program" includes, as part of its meaning, the idea of a certain time span, and as there is a "beginning" to each program, there should also be an "end". When it comes to the protection and safeguarding of sacred monuments, however, we should rather speak of a long-term protection policy which continually draws upon all previous experience.



Implementing the Educational Strategy of the National Heritage Board of Poland within the Scope of Combating Crime against Archaeological Heritage

Paulina Florjanowicz

Director of The National Heritage Board of Poland

The mission of the National Heritage Board of Poland (NHB)¹ is to create the basis for the sustainable preservation of heritage, to gather and disseminate knowledge about historical monuments and objects, to set standards for their protection and conservation, and to raise social awareness of Polish cultural heritage in order to preserve it for posterity.

Education to raise awareness of the necessity to protect heritage and its value is an especially important task of the NHB. For decades, the Polish concept of conservation has been focused on searching for answers to the question “How?”, as to “How to protect monuments?”, “How to document them?” and “How to preserve them for posterity?”. Among the multitude of activities related to the need for the urgent documentation and revitalisation of cultural heritage in Poland – the stock of which has been drastically decreased due to wars – no one has asked the fundamental question from the perspective of the challenges of modern times, which is “Why?”, as in “Why should we protect monuments?”, “Why should we document them?” and “Why should we preserve them for posterity?”. Posing such questions was actually unwelcome from the perspective of the then communist authorities, whose representatives attempted to create a new reality disconnected from the past, tradition and the sense of togetherness. In this context a significant change of the Polish borders after World War II and resettlements of the population on an unprecedented scale must be mentioned. All of these factors have successively and significantly decreased the sense of a bond

between Poles and the historical objects and monuments surrounding them – or from a wider perspective – their heritage.

Almost five decades of the above-mentioned policy with regard to the past and its passive continuation in later years have led to a situation where the degree of awareness, as far as heritage and the sense of protecting it are concerned, has been dramatically low among members of the Polish society.

In this context it should come as no surprise that the effectiveness of the Polish system of protecting monuments and

historical objects and the guardianship of these have both been unsatisfactory. Certainly many factors have contributed to this state of affairs, but one of the most important ones must surely be the long-standing lack of educational activities related to the issue of heritage.

The situation began to change in 2007 when, as a result of the then National Centre for the Research and Documentation of Monuments being restructured into the current NHB, education became (and has remained until today) one of the vital areas of this central institution’s activities – an



Both the general public and the “treasure hunters” themselves have to be continually reminded that the protection of archaeological monuments and objects does not consist in collecting the largest number of artifacts, and that their unmethodical way of being retrieved irrevocably destroys the stratigraphic context which deprives them, in fact, of their educational value”

institution which is also responsible for an effective implementation of the national policy within the field of historical objects and monuments.

The overriding goal of the education strategy formulated back then was to preserve Polish cultural heritage for posterity. Based on the analysis of the three target groups towards which NHB's activities are addressed, three detailed goals have been defined:

1. More effective activities of services appointed to protect monuments – target group: those dealing professionally with the issue of protecting monuments (Provincial Conservators of Monuments, employees of Provincial Offices for the Protection of Monuments, the police, Border Guard, and Customs Service officers).
2. Better guardianship of monuments exercised by owners, administrators and self-governing bodies – target group: owners and users of historical monuments, including self-governing bodies, churches and private individuals.
3. Increasing social responsibility for the state of historical monuments – target group: the general public, those not professionally connected with historical monuments and especially children and teenagers.

One of the most difficult areas for conducting educational activities is the protection of archaeological heritage, i.e.

the value of this category of monuments is extremely difficult to understand for non-archaeologists, while at the same time this heritage is especially exposed to destruction.

Polish law provides an effective framework for protecting heritage. The Constitution of the Republic of Poland ensures the protection of cultural heritage in accordance with the principle of sustainable development. Poland also ratified the European Convention on the Protection of the Archaeological Heritage from Valletta in 1992 (Journal of Laws of 9 October 1996). The Act from 23 July 2003 on the Protection of Monuments and the Guardianship of Monuments (Journal of Laws of 2003, No. 162, item 1568, consolidated text) determines that all archaeological monuments and objects, regardless of their state of preservation, are subject to protection. All archaeological monuments and objects are the property of the State Treasury and the definition of an archaeological monument or object does not provide for a dividing timeline. Construction work conducted within archaeological sites is preceded by research. All archaeological studies, as well as amateur searching for hidden monuments and objects (including searching conducted with the use of metal detectors), require permission. The current conservation doctrine assumes the protection of archaeological sites in situ so as to preserve, in compliance with the

principle of sustainable development, the largest amount of information about the past for posterity with increasingly less invasive methods of research that are currently available.

Unfortunately, the practical knowledge of these regulations (including knowledge presented by law enforcement authorities, courts of law, and at times even archaeologists themselves, not to mention detectorists) as well as the effectiveness of their enforcement are gravely unsatisfactory. Therefore, supporting the combating of crime against archaeological heritage is a perfect example of how the educational strategy of the NHB is to work in practice, i.e. through direct and indirect educational activities we can contribute to a decrease in the number of crimes in this category.

Archaeological heritage is endangered by many factors, both natural and caused by humans. The former do not constitute the subject of this article, while among the latter we may distinguish two types – threats posed unintentionally and intentionally.

Among the human factors endangering archaeological heritage in an unintentional way, the following should be distinguished: construction activities, deep ploughing, reclamation and earthworks as well as discoveries of archaeological objects and monuments made by persons who are not acquainted with the regulations or who are not aware of the need for protecting this type of heritage. Some of these discoveries are made accidentally, e.g. by farmers. The group that unintentionally poses a threat to archaeological heritage includes a certain number of detectorists, or so-called "treasure hunters", who use metal detectors. In Poland, despite the legal regulations in force, this hobby is exceptionally popular. Some of these detectorists take part in "treasure hunting" with no awareness of or having no understanding of the fact that it could cause irreparable losses to our knowledge of the past.

Unfortunately, a large number of detectorists belong to a group that intentionally poses a threat to archaeological heritage. The majority know the regulations in force and are aware of the damage they could do to historical monuments – evidence of this is provided by reading the online forums of these social circles. They are



also aware of the fact that a search for monuments and objects may be carried out legally only if suitable permission is obtained from the competent Provincial Conservator of Monuments. This, however, requires both the handing over of any found archaeological objects because they are the property of the State Treasury and rules out the possibility of a legal sale. This is why the educational activities of the NHB aiming to hinder this specific group's activities are of a rather indirect character, which means that the NHB's activities are not addressed directly at the ones breaking the law but rather at those responsible for prosecuting them.

Implementation of the educational strategy of the National Heritage Board of Poland within the scope of supporting the fight against and combating crime against archaeological heritage is carried out in the following manner:

Activities within Goal No. 1 – more effective activities of services appointed to protect monuments – target group: those dealing professionally with the issue of protecting monuments (Provincial Conservators of Monuments, employees of Provincial Offices for the Protection of Monuments, the police, Border Guard, and Customs Service officers).

NHB activity within this goal is, above all, educational. Since 2007 the NHB has been training police, Border Guard and Customs Service personnel within the scope of basic issues related to archaeology and appropriate legal regulations. During this period of time, approximately two hundred officers throughout Poland have been trained, and a manual on the issues and methods of fighting crime within the scope of archaeological heritage has also been prepared and given to the police for internal use. This training has not only allowed the NHB to pass on essential information, but it has also enabled a discussion, exchange of experience and creation of a network of cooperation which considerably simplifies daily operational activities.

As far as the first goal is concerned, the exchange of experience in the field of conservation in Poland and abroad must also be mentioned. Speeches by NHB representatives concerning the program of fighting and combating crime against archaeological heritage during various conferences,

seminars and trade publications serve this very purpose. We also present case studies which are analysed in great detail.

One of the basic tasks of the NHB must also be mentioned in this context, which is the drawing up of and dissemination of standards for dealing with historical monuments and objects, including the principles of protecting archaeological monuments and objects. These standards appear in periodicals published by the NHB, especially in the *Kurier Konserwatorski*, which are targeted mainly at conservation services, and also on the NHB website. The principal rule of protecting archaeological heritage is, certainly, the priority of protection in situ.

Activities within Goal No. 2 – better guardianship of monuments exercised by owners, administrators and self-governing bodies – target group: owners and users of historical monuments and objects, including self-governing bodies, churches and private persons.

The group of owners in this context consists of, above all, owners and administrators of properties where archaeological sites, i.e. those found in the National Register of Historic Monuments, are located. About 500,000 archaeological sites have been catalogued in Poland, the majority of which have never been studied and are known only from field surveys. This includes areas surrounding immovable monuments and objects entered into the register of monuments, especially the areas around churches and cemeteries. Finally, hundreds of battlefields dating back to periods from the Middle Ages until World War II are not being sufficiently protected.

The group of owners of the above-mentioned properties is then not only very numerous, but also considerably varied and dispersed, so that systematised activities are difficult to carry out in this area. The point is to reach farmers, clergymen, owners of forested areas and administrators of water, state and local authorities. Activities that may be described as educational in this context are focused on conveying information (through publications, conferences, training sessions and the media) about issues connected with this type of crime, about the benefits of recognising archaeological heritage in a methodical way, about the regulations in force, including the

guardianship of monuments and historical objects, the responsibility of which, according to Polish law, lies with the owner, and about the need for protecting property from being disturbed.

In this context investors who carry out earth and construction work also have to be mentioned. As has already been mentioned in the introduction, crimes against archaeological heritage are committed not solely by detectorists, but also by the intentional or unintentional destruction of archaeological monuments and objects during construction work. The educational measures related to this aspect are strictly preventive. Within its scope, the NHB has for many years given lectures at the Faculty of Civil Engineering at the Warsaw University of Technology and has also substantially supported the largest investor in recent years – the General Directorate for National Roads and Motorways. In 2010 cooperation with State Forests was started through a project of reclaiming post-military areas and the necessary training carried out in engineering companies concerning the basics of archaeology.

The group of owners, or rather holders of archaeological monuments or objects (of the movable type), includes those who put items covered by the definition of an archaeological object up for sale. This particularly concerns selling through online auction websites. A large number of sellers, and potential buyers, are not aware of the specific legal status of an archaeological object. Even experienced collectors of antiques and works of art are sometimes unaware of this specificity. This especially concerns the fact that archaeological objects constitute *res extra commercium* as they belong to the State Treasury. Therefore, from the very beginning and within the scope of monitoring collectors' auctions, the NHB has adopted the principle of always informing those who put such objects up for sale, e.g. objects which could have come from an illegal excavation, about the legal status and consequences resulting from this type of activity. This information is currently available to all users of the largest online auction website in Poland – Allegro – with which the NHB cooperates within the scope of the "Rights Protection Cooperation Programme"². Such information-based and education-based activities have

turned out to be highly effective. In several cases this has led to the voluntary handing over of historical objects to the State Treasury by persons who had been unaware of their legal status. It is also treated by law enforcement bodies as evidence proving that a possible crime was committed intentionally.

Activities within Goal No. 3 – increasing social responsibility for the state of historical monuments and objects – target group: the general public, those professionally not connected with historical monuments and especially children and teenagers.

Educational activity within the third goal is carried out mainly through the media. The point is to continually remind people about the specificity of archaeological heritage and about the overriding principle of protection in situ. In the context of detectorists, both the general public and the “treasure hunters” themselves have to be continually reminded that the protection of archaeological monuments and objects does not consist in collecting the largest number of artifacts, and that their unmethodical way of being retrieved irrevocably destroys the stratigraphic context which deprives them, in fact, of their educational value.

Within the scope of counteracting other manifestations of the destruction of

archaeological sites, the NHB contributes to disseminating the results of rescue research efforts carried out along the route of road investments in order to raise people’s awareness of the importance of these discoveries and the need of continuing the so-called “motorway program”. In 2011, an exhibition and publication were prepared that promoted the most valuable archaeological discoveries on the routes of road construction works in Poland.

Preventive measures that aim to increase social responsibility for the state of monuments also include various activities that promote archaeology and archaeological heritage. Despite the fact that the projects are being carried out, the level of public awareness is still very low. As was mentioned in the introduction, the issue of low public awareness concerning heritage value is common, but archaeological monuments and objects are particularly difficult to appreciate. This situation is not being improved by the fact that a very low index of published research results is a huge problem for modern Polish archaeology, not to mention the number of popular science publications, which is close to zero. The NHB has been attempting to minimise this phenomenon by supporting, among others, the publication and dissemination of research results within the scope of the program run by the Minister of Culture

and National Heritage called the “Protection of Archaeological Monuments”.

To summarise, the educational activities carried out by the National Heritage Board of Poland towards the protection of archaeological heritage only support the actual combating of crime in this field. Nevertheless, from the perspective of five years’ experience, we can say with all certainty that these activities are crucial, i.e. their direct effects are difficult to evaluate and take place in a wider time frame, but without them prosecuting crimes of this type would not be possible. By carrying out a whole range of activities it turns out that we have been able to create an unequivocal and clear policy of proceedings concerning those who intentionally or unintentionally destroy archaeological heritage. The educational strategy as presented above enables the NHB to reach all stakeholder groups through activities geared to their needs and expectations. Certainly much remains to be done, many subsequent educational projects await implementation and many negative factors have been impossible to eliminate, however, for the time being, it may be said that the program of fighting crime against archaeological heritage as implemented by the NHB has ceased to be a so-called mission impossible.

ENDNOTES

1. As of 1 January 2011, in compliance with Order No. 32 of the Minister of Culture and National Heritage from 23 December 2010, the National Centre for the Research and Documentation of Monuments changed its name to the National Heritage Board of Poland and was granted a new statute. The name of this institution in English, i.e. National Heritage Board of Poland, has not changed.
2. The agreement between Allegro and the NHB (then the National Centre of Research and Documentation of Monuments) was signed in July 2007. This cooperation is based on eliminating auctions which do not subscribe to the principles of protecting archaeological heritage. According to the information available, this was the first system-based cooperation of this type between a national heritage agency and an online auction website in the world which did not require the direct participation of law enforcement bodies. More information on this subject can be found in an article by Marcin Sabaciński entitled “Cooperation between the National Heritage Board of Poland and the Allegro Auction Website in the Campaign Against the Illegal Trade of Archaeological Artifacts” in this volume.

Cooperation between the National Heritage Board of Poland and the Allegro auction website in the campaign against the illegal trade of archaeological artifacts

Marcin Sabaciński

National Heritage Board of Poland

Internet commerce is one of the most rapidly developing segments of the market, of which the cultural heritage market constitutes an inseparable part, and there has been growing concern for the illegal trade of antiquities in recent years. Especially present on the largest local and global auction websites, this phenomenon has largely been beyond the control of state bodies and international institutions. Rare instances of successful intervention in illegal auctions have been overshadowed by the massive number of similar-looking, yet legal, auction offers.

In Poland, the most striking instance was the large number of archaeological antiquities from illegal excavations offered on Allegro¹, the largest nationwide auction website. Researchers and experts involved in the protection of archaeological heritage had long cited the steady and high turnover of archaeological antiquities as evidence of the large scale of looting taking place at archaeological sites across Poland. This clearly indicated the vulnerability of the archaeological community vis-à-vis the plunderers as well as the failure of state

institutions with regard to the effective enforcement of heritage protection laws. Between 2007 and 2011, around 2600 suspicious auctions were registered on Allegro – these offered not only archaeological objects found in Poland, but also a certain number of artifacts from excavations carried out outside the country. It is important to remember that any archaeological object found on the territory of Poland, irrespective of how it has been acquired, constitutes the property of the State Treasury, and therefore any attempt to trade it is against the law².



It is not possible to purchase the object in good faith or to be entitled to it by usucaption (M. Cherka et al., 2010: 169). Thus, the problem urgently demanded a solution. However, at the beginning of 2007 no standard procedures for this type of action as yet existed, with one exception being an initiative by the British Museum and the Museums, Libraries & Archives Council. In October 2006 the institutions reached an agreement with the British equivalent of eBay to curb the illegal trade of antiquities. However, removal of an auction was still on condition of a notification from law enforcement bodies (Nighthawks & Nighthawking, pp. 82-83)³.

The first attempts of the National Heritage Board⁴ to remove auctions offering archaeological antiquities owned by the State Treasury from Allegro were unsuccessful. We repeatedly faxed the Allegro administrators, informing them that the auctions were illegal and should be removed. However, the transactions were often concluded before the website could take action. We created a special account on the website in order to be able to send e-mail messages to other users. So, whenever we requested the removal of a transaction, messages were sent to the bidders and to the seller, informing them of the law and obligations resting upon any finder of a historical object.

It is worth mentioning that before these measures were implemented, the

actions and activities of both the sellers and bidders were first observed and analysed over a period of several weeks. Suspicious auctions were archived. This helped to create a database of individuals permanently involved in the illegal trade, acquisition and sale of archaeological antiquities across Poland. These identified users were then successively reported to the police for breaching the heritage protection law – no correspondence was ever initiated with them. Information on the law and the resulting obligations was only sent to users whose history of transactions and descriptions of auctions indicated that they had acquired the artifact by chance and did not have any associations with the market trade of illicit antiquities.

At the next stage, an attempt was made to contact the administrators of the individual auction categories under which the archaeological items were most frequently offered. This decision turned out to be a turning point, and the terms of cooperation were agreed upon the very same day. From then on, whenever a letter was sent to the user, the administrator also received a request to remove the auction for being illegal. Each case was supported with a justification, and where circumstances could leave room for doubt, the final decision was taken only after mutual consultation. Our mission was well received, and this joint cooperation allowed us to draw upon the wealth of experience that Allegro admin-

istrators had obtained in dealing with the trade of illicit antiquities on the Internet, as well as upon their knowledge of the market and the collectors' circles.

After several weeks the measures we had taken began to bear fruit. A heated debate sparked among the circles interested in the trade of artifacts, it soon spread to discussion forums across the web and literally ignited Allegro's board of users. Allegro administrators again proved extremely helpful by taking special pains to explain our reasons to the users and by publicly justifying our actions.

The debate coincided with the first widely publicised police interventions concerning individuals engaged in illegal practices on the Allegro website.

Regularly notifying users about the removal of auctions offering archaeological antiquities, along with the real threat of prosecution, quickly raised the level of awareness about the law among collectors of antiquities and treasure hunters.

As a result, the turnover of archaeological findings on the largest nationwide auction website gradually began to decrease.

In the meantime, in July 2007, the National Heritage Board, together with Allegro, officially formalised their de facto cooperation. The two parties signed a declaration announcing their accession to the Rights Protection Cooperation Programme (WOP, Współpraca w Ochronie Praw). The programme was

Allegro auction portal,
source: www.allegro.pl



Website of the Rights Protection Cooperation Program
Source: www.allegro.pl





Regularly notifying users about the removal of auctions offering archaeological antiquities, along with the real threat of prosecution, quickly raised the level of awareness about the law among collectors of antiquities and treasure hunters”

designed to eliminate illegal items and services from the website with the aim to protect brand owners and Internet users from the legal consequences of selling or purchasing illegal or fake goods. The task of removing illegal auctions was no longer the responsibility of the administrators and was handed over to the programme support staff. Currently, the National Heritage Board is the only state institution, and one of only two partners in the programme, that does not protect any specific registered trademark⁵.

The next stage also involved the Allegro website in the protection of cultural heritage. In cooperation with the National Heritage Board and the National Institute of Museology and Collections Protection⁶, the National Police Headquarters managed to negotiate an introduction of the principles pertaining to the safe trade of antiquities on the website. A special link to a page with all the relevant information was placed under every category in which archaeological items were usually offered.

However, cooperation between the National Heritage Board and Allegro was not only restricted to the initiatives briefly described above. We also had the opportunity to reach Allegro users through a range of educational activities. Information on the mission statement of the National Heritage Board and the legal issues surrounding the protection of archaeological heritage were placed on the Allegro user blog⁷ in the form of an interview and were sent out to several thousand of the most active sellers⁸.

In addition, we were invited to attend a meeting of the Allegro Group, a two-day educational and recreational event organised for the website's users every year. As a partner in the Rights Protection

Cooperation Programme, we presented our educational materials and answered queries from Allegro users.

In May 2011 a special tool designed to verify auctions without the need to send e-mails was made available to all partners in the programme. Reported auctions can now be removed through a special form available via the partner's Allegro account, and it is also possible to generate statistics. An important element of the tool serves to verify auctions reported by the Rights Protection Cooperation Programme support staff. At the request of the National Heritage Board, a special field in the drop-down menu, tagged as "historical object", was added to the system.

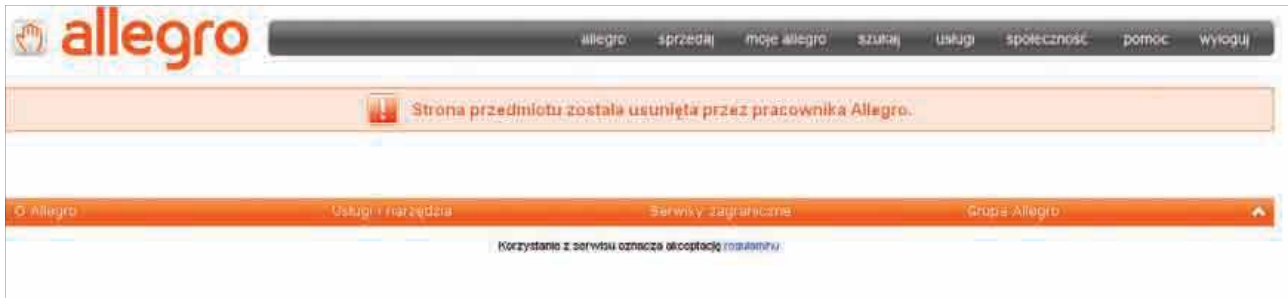
The joint effort of Allegro and the National Heritage Board in the field of cultural heritage protection was an unprecedented initiative which significantly predated similar solutions adopted by other European countries in their campaigns against the trade of illegal antiquities on the Internet.

Cooperation between the two parties had already begun to bear fruit when international organisations were only starting to prepare for action. The appeal of UNESCO-ICOM and the Interpol General Secretariat concerning the fundamental actions with respect to cultural heritage offered for sale on the Internet was issued as late as 7 July 2007⁹. In September of the same year, the 5th International Interpol Conference on the prevention of illegal trade in cultural heritage stolen in Eastern and Central European countries was held in Wieliczka. Much of the conference was focused on issues surrounding illegal trade on the Internet. One of the final recommendations made to conference participants suggested en-

listing the cooperation of auction websites.

On 1 July 2008, a year after the official cooperation agreement was signed between Allegro and the National Heritage Board, the rules governing trade in archaeological antiquities were finally changed on the German¹⁰, Austrian and Swiss eBay sites. All auctions offering archaeological items are removed unless they include written confirmation of the item's provenance, be it a receipt, photograph from the catalogue of an auction house, or a document issued by an authorised official.





Message after removal of the auction due to non-compliance with rules of the Allegro portal
 Source: www.allegro.pl

In January 2009, in its report on problems posed by illegal archaeological excavations, English Heritage called for similar solutions to be implemented on the British eBay website (Nighthawks & Nighthawking, p. 110)¹¹.

A significant decrease in the number of auctions offering illegal artifacts on the Polish Allegro website could already be observed at that time.

The help of our partners at Allegro was invaluable – special thanks for their

friendly, open attitude and thorough understanding of issues surrounding cultural heritage, as well as for the smooth cooperation, should go to Piotr Bykowski, Bogna Niklasiewicz, Magdalena Gramza, Anita Gnatowska and Anna Tokarek.

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ENDNOTES

1. In May 2011 the number of users was estimated to be about 13 million.
2. The matter is discussed in Article 35 of the Act on the Protection of Monuments and the Guardianship of Monuments from 23 July 2003 (Journal of Laws of 2003, no. 16, item 1568, with later amendments):
 1. Objects of archaeological monument status, discovered, found accidentally, or gained as a result of archaeological research, are the property of the Treasury.
 2. The property of the Treasury also includes objects of archaeological monument status gained as a result of the search referred to in Article 36, Paragraph 1, Point 12.
 3. The place of storage of the archaeological monuments discovered, found accidentally, or gained as a result of archaeological research or search referred to in Article 36, Paragraph 1, Point 12 is indicated by the Provincial Conservator of Monuments, who, by way of a decision, deposits it in a museum or other organizational unit by its consent." The search referred to in paragraph 2 involves searching for hidden and abandoned movable monuments, including archaeological monuments, using all kinds of electronic and technical facilities as well as underwater equipment. (Art. 36, Paragraph 1, Point 12) www.machuproject.eu/documenter/ACT-protection-of-monuments.doc
3. More information on the initiative can be found in the Oxford Archaeology report prepared for English Heritage: Nighthawks & Nighthawking: Damage to Archaeological Sites in the UK & Crown Dependencies caused by Illegal Searching & Removal of Antiquities, from January 2009, pp. 82-83. website: <http://www.helm.org.uk/upload/pdf/NIGHTHAWKS2.pdf>
4. In 2007 the National Heritage Board was known as the Centre for the Research and Documentation of Monuments. The name was changed on 1 January 2011.
5. As of May 2011, a total of 155 partners representing over 250 registered trademarks formally acceded to the Rights Protection Cooperation Programme. The only other institution which does not protect any trademark is Salamandra, the Polish Society of Environmental Protection, which controls trade in endangered species protected under the Washington Convention.
6. In 2007 the National Institute of Museology and Collections' Protection was known as the Centre for the Protection of Public Collections.
7. <http://blog.allegro.pl/index.php/2009/03/18/partnerzy-wop-kim-jest-archeolog-amator/>
8. The package was sent to users holding SuperSeller status. This status is granted to users with a spotless reputation who sell more than 10 items with a total value of over 5000 PLN every month over a period of three months.
9. http://icom.museum/fileadmin/user_upload/pdf/Statements/ENG/Illicit_traffic2007_eng.pdf
10. <http://pages.ebay.de/help/policies/artifacts.html>
11. Oxford Archaeology report for English Heritage: Nighthawks & Nighthawking: Damage to Archaeological Sites in the UK & Crown Dependencies caused by Illegal Searching & Removal of Antiquities, January 2009, p. 110. <http://www.helm.org.uk/upload/pdf/NIGHTHAWKS2.pdf>

Combating cultural heritage crime within the Norwegian police: education and higher competence

Brian Kristian Wennberg

Environmental Coordinator, Oslo Police

Crimes against cultural heritage

Combating crimes against our cultural heritage has so far been a marginal task when one considers the number of reports in relation to the other major challenges the police are faced with, and it has been a low priority. Cases relating to breaches of the Cultural Heritage Act are treated within the field of environmental crime, which also includes crimes against nature, illegal pollution and work environment offences. All training in combating cultural heritage crime comprises a part of the subject on environmental crime. There are currently no specialist training courses offered to police officers within the area of cultural heritage crime. Investigation of environmental crimes is in many places organised jointly with investigation of economic crime in the local police ECO-teams. Some police districts have their own environmental investigators and prosecutors, but usually it is the local police who have to handle all types of incoming cases. The National Authority for Investigation and Prosecution of Economic and Environmental Crime – ØKOKRIM – has its own environmental team with national responsibility for assistance, and this team has also been assigned the role of national resource centre for art and cultural heritage crime.

Legislation and management

The main rules for the protection of our cultural heritage are to be found in the Cultural Heritage Act of 1978, the Used Article Trade Act of 1999 and the Planning and Building Act of 2008 and its regulations. Cultural heritage administration,

however, makes a distinction between immovable and movable objects (NOU 2002:1, p. 111 and Norendal, S 2011). The management of monuments and sites is a question of land use and is subject to the Ministry for the Environment. The Ministry for Culture is responsible for the movable objects. Responsibility for the Used Article Trade Act is currently shared between the Communal and Regional Department and the Ministry for the Environment. These distinctions may also have consequences for the legal rights of cultural heritage objects, disclosure of criminal offences and enforcement of rules.

Norway also does not have a consistent distinction between art crime and crimes against archaeological objects in either legal

terminology or the public debate. There is a more conscious use / however ambiguous / of the concept cultural heritage (Korsell, L & Kalman, L 2011:11) through a series of publications from the Swedish National Council for Crime Prevention, Information and Publication (Brottsförebyggande rådet - Brå) in Sweden, which largely deals with crimes against art and antiques, whereas the concept "formminnesbrott" concerns crimes against archaeological monuments and objects. The use of the term Cultural heritage crime in this article thus covers both art crime and crime against archaeological objects and sites.

Through international conventions, such as the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects – ratified by Norway in 2001, and

Excavation without permit of water and sewer pipes through a medieval cultural layer

Photo: Norwegian Institute for Cultural Research, 2010





Gold bracteates from a case under investigation on the illegal import of cultural artifacts
Photo: documentation in the case, 2011

Management Office or County Municipality – and registered as a breach of the Cultural Heritage Act. These types of crimes are recorded in decent statistical figures, but there could be very many unknown cases due to factors likely left undetected or unreported. On the other hand, crimes related to art and antiques are recorded as ordinary property crime cases, such as vandalism, burglary or theft from museums and churches, and do not specify what has been stolen or damaged. Statistically, therefore, the theft of a wallet from a visitor of a museum and the theft of a priceless painting appear to be similar. Both instances are considered thefts and go into the 'crime for gain' statistics, but the theft of an important painting is not registered as a cultural heritage crime. Notifications concerning breach of the Used Article Trade Act are rare, and the provisions related to the illegal import of cultural heritage artifacts are relatively new and not yet tested within the court system.

Cultural Heritage Database

It has been politically decided to create a Norwegian database of stolen cultural artifacts in connection with the major upgrade of police IT systems. One of the aims is that art and antique dealers, the public and others can gain access to a public version of the database.

the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property – ratified in 2007, we have committed ourselves to combating cross-border cultural heritage crime.

Registration of cases and statistics

Crimes against cultural heritage affecting archaeological sites are usually reported by supervisory authorities – the Directorate for Cultural Heritage, City Cultural Heritage





Crimes against cultural heritage will be included as part of an in-depth investigation into environmental crimes. All specialisation courses will also help strengthen the students' general investigative competences"

Courses at the Police Academy

Police training takes three years. The Police Academy (PHS) has two branches: one in Oslo and one in Bodø. Here I will give a short overview of the cultural heritage crime curriculum at the Police Academy in Oslo, which trains the majority of police cadets.

Bachelor of Education

Students are briefly acquainted with the Cultural Heritage Act as part of specific laws within the area of criminal law and criminal procedure.

Specialisation (by Police Inspector Geir Normann Valaker)

Throughout the 2010/2011 academic year students have been able to choose environmental crime as a three-week specialisation course, where cultural crime accounted for approximately four hours of teaching. Starting with the 2011/2012 academic year, the new curriculum will also include students in their final year of study.

Recently approved course descriptions include a choice of 10 specialisation courses, all of which are linked to the investigation of various cases and investigative methods, including the investigation of environmental crimes. The subject will be covered during five weeks, including an exam, and will award six credits. Crimes against cultural heritage will be included as part of an in-depth investigation into environmental crimes. All specialisation courses will also help strengthen the students' general investigative competences.

Continuing education (by Police Inspector Ivar Husby)

Since the mid-1990s, the Police Academy has offered continuing education in the field of combating environmental crime. From the very beginning, cultural heritage crime constituted a key element of the education. It started as a three-week course, without an examination, but was in 2005 enlarged into a specialist program awarding 20 credits. The program is offered every other year, the next time planned for 2012.

Principally, all specialist programs at the Police Academy starting in 2011, including the study of environmental crime, will be based on a mandatory continuing education program in investigations (15 credits). Central to the content of such a joint module in the overall subject area will be the use of phenomenal knowledge and meth-

odology. The purpose is to further enhance a general understanding of the subject of criminal investigation and to facilitate a sharing of knowledge and development. The aim is to strengthen the police's general expertise in the investigation of all disciplines. The environmental crimes program of today is organised as a combination of group meetings and homework. The target group are first and foremost police employees, in other words, policemen, policewomen and prosecutors who have taken part in or will be responsible for the investigation and prosecution related to combating environmental crimes in their district. Applicants from other government agencies or authorities, who have or plan to take over academic coordination and supervisory functions, could also be considered for admission to the program. The program is estimated to be about



The painting Portrait Study by Edvard Munch, 1887, stolen from the National Gallery in 1993
Photo: ØKOKRIM

560 hours and to be completed within 12 months. Group meetings are divided into 140 hours split into 4 weeks. One of the meetings which lasts one whole week is entirely devoted to cultural crime and the schedule for that week is entitled "Art and Cultural Crime". It will give students a thorough introduction to the main provisions of the Cultural Heritage Act and the Planning and Building Act, as well as to the current penalty provisions. The teaching is not only theoretically-oriented, but more technically -oriented investigations will also be discussed. The provisions on import and export, relevant conventions and international cooperation are also discussed as themes of the course. Trade of used articles, art and antiques, marine artifacts and church security are also on the timetable.

Specialisation

The main plan is to establish a master program in forensics at the Police Academy. Over time, the investigation of environmental crimes could conceivably be a subject for individual theses. In addition, various courses and studies abroad are being offered, including those under the auspices of the European Police College - CEPOL.

More and more police students are taking supplementary university courses and some have a degree in archaeology. An increased interest in the research en-

vironment at the Institute of Archaeology, Conservation and History at the University of Oslo is also noticeable.

Raising the competence level

ØKOKRIM publishes a series of papers on topics within the area of economic and environmental crime. An important reference point for the protection of cultural heritage is the commentary edition of the Cultural Heritage Act (Holme 2005). The environmental team publish a professional journal called Environmental Crime, which is directed towards environmental investigators and prosecutors, and in which current court decisions and articles on various topics, including cultural heritage crime, can be found.

Working alongside the Police Directorate since 2006, ØKOKRIM has been allocated national responsibility for raising competence within art and cultural heritage crime (letter of 2 January 2006). This involves providing technical assistance and advice to police districts, implementing a competence upgrade and cooperation with the Bureau of Crime in cases related to organised crime, establishing good relationships with partners outside the police force and actively participating in international cooperation measures, etc. ØKOKRIM has a scheme for visiting stu-

dents with the aim of increasing expertise in financial crime and environmental crime in the local police districts. Investigators and prosecutors are employed for a maximum of one year with a commitment to working within the field for two years after returning to their usual place of work.

In order to coordinate the efforts of combating environmental crime, both internally within the police and externally in relation to their partners, an environmental contact arrangement has been introduced, whereby each of the 27 police districts will have an environmental coordinator and each operational unit will have an environmental contact person. This is an important element in raising local competence. The national environmental coordinator is placed with ØKOKRIM's environmental team and is responsible for an annual ECO seminar in which environmental coordinators and police prosecutors from all over the country will meet.

Summary

The fact that the protection of cultural heritage is divided between different ministries and different authorities with varying degrees of control hampers the detection of criminal offences. It is also essential that the cultural heritage authorities inform the police in cases where a breach of the Heritage Act is suspected. An important part of



the expertise acquired is through experience. Police and prosecutors need actual cases in order to learn how to deal with them appropriately. The procedures for the registration of cases of art theft from museums, collections and churches should also be improved. The art base, which is being planned, will be a step in the right direction. Police awareness surrounding cultural heritage crimes is increasing, but only when a more powerful special unit is established, which can work more proactively, e.g. within ØKOKRIM, will the importance of this work be more obvious. Through the UNESCO 1970 Convention, Norway has committed herself to having a national entity working with the issues which the convention deals with (Article 5, first paragraph). The text even says that there should be "[...] a sufficient number of qualified employees to perform the following tasks in an efficient manner: [...]". ØKOKRIM has so far not been allocated the necessary funds from the funding authorities for this task.



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CONTRIBUTORS TO THIS ARTICLE

- Police Superintendent Kenneth Didriksen, ØKOKRIM
- Superintendent Geir Normann Valakers, Police Academy
- Section Leader Ivar Husby, Police Academy
- Police Inspector Ingunn Mannsås Kjaerstad, Police Directorate
- Police Inspector I Stina Irene Gravningen Sjo, Financial and Environmental Crime Section, Oslo pd



Implementation, complications and lack of education: Some reflections on the advantages of knowledge exchange¹

Josephine M. Rasmussen, prof. Christopher Prescott

Department of Archaeology, Conservation and History, University of Oslo

The destruction caused by looting and theft from archaeological contexts and prehistoric sites is well documented and has been subject to extensive research. The Norwegian ratification of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property in 2007 is a recognition of the destructive consequences of plundering and looting, and is a forceful call to more effectively deal with this type of crime. The ratification and subsequent implementation into the Norwegian Cultural Heritage Act is in line with evolving global awareness of the scale and consequences of heritage crime. From the 1970s and onwards there has been a significant development of international legislation, combined with more vigorous, national law enforcement, in attempts to restrict the looting and destruction of archaeological sites. Still, it seems that both national and international legal regimes struggle to respond adequately to the increasing destruction of cultural heritage in the wake of war, looting and illegal trafficking in archaeological artefacts. Evaluations of various legislative attempts to regulate the trade suggest that such efforts have had a negligible effect on the illicit and semi-illicit market. Although this article does not allow for a thorough discussion of the complex and intersecting reasons for this situation, it is evident that organizing enforcement and delegating responsibilities are central components in the execution of the legislation. This article addresses some of the challenges that arise in a situation where the police and customs are responsible for handling counter measures against illegal trade and trafficking in cultural objects.

Need for knowledge

In 2008 the Department of Archaeology, History and Conservation, University of Oslo, initiated a survey of the potential need for developing competence within a broad range of the heritage management sector. An important aspect of this study was to investigate compliance with the then newly introduced restrictions on artifact trade and import regulations. One part of the survey was conducted among police and customs employees, focusing on the handling of heritage crime within the police and customs². 176 respondents (35,2 % response rate) from the six Norwegian custom regions, as well as from the Directorate of Customs and Excise, took part in the survey. From the police there were 44 respondents (63,8 % response rate). The small number of police respondents, compared to respondents from customs, is due to the fact that the survey was disseminat-

ed only to police staff with responsibilities explicitly involving environmental issues and heritage crime. This should be kept in mind when considering the results of the survey. The 33-point questionnaire contained sections where answers were given qualitatively, as well as multiple choice-variants. Of particular relevance here, are the following finds from the survey:

Nearly 80 % of all respondents feel that they lack basic knowledge of what cultural objects may look like, and police-respondents say they feel apprehensive investigating cultural heritage crime in general.

None of the respondents from the customs and only a few from the police could name databases listing stolen cultural property.

More than 60 % of respondents said that they are not familiar enough with the legislation concerning cultural heritage to be able to perform their duties in this area.





Nearly 80 % of all respondents feel that they lack basic knowledge of what cultural objects may look like, and police-respondents say they feel apprehensive investigating cultural heritage crime in general”

Respondents particularly requested an opportunity to acquire more competence on cultural heritage legislation. In addition, the police felt they would benefit from professional training on how to uncover and investigate cultural heritage crime; how to treat and secure archaeological material; and how to recognize archaeological contexts and material. They also wanted

more knowledge about illegal trade in cultural objects, smuggling, and connections to other crime fields.

Both groups advocated interdisciplinary cooperation, and appealed for better procedures in cases where there are suspicions that a crime was committed.

Though the survey cannot claim to be a precise reflection on every aspect of police work and customs control regarding heritage crime, it provides valuable and useful insights into how the crime field was perceived by respondents from both the customs and from a central part of the Norwegian police forces that are dedicated to heritage crime. More than a year after new legislation was enacted, the survey also provides useful records of first hand experiences and reflections by those appointed to handle the regulations. Based on the survey it is safe to conclude that at the time when the report was published (spring 2008) little had been done to enable the police and customs to fulfill the responsibilities placed on them through the new regulations on border control and trade in cultural objects.

Training and education

Since 2008, educational initiatives have been undertaken to remedy the need for knowledge and training within customs and the police. In line with the results of the survey, our department at the University of Oslo suggested that competence building within police and customs should make use of existing, interdisciplinary expertise. The aim would not be to turn the police and customs employees into heritage experts, archaeologists or art historians, but the relevance of the training would benefit from multidisciplinary cooperation. To encompass some of the challenges revealed by the survey, the educational focus could be on:

- » National and international tendencies regarding theft, looting and illegal trade.
- » Procedures and responsibilities concerning import/export regulations, as well as general cultural heritage legislation.

Training should, e.g., enable participants to:

- » Recognize artifacts and cultural objects.
- » Make purposeful inquiries in relation to suspicious objects, transfers or transactions.
- » Handle frail historical material, when necessary.

Make use of various databases and other international and national resources.

For the purpose of creating valuable contacts and networks, it was suggested that training should allow the concurrent participation of both police and customs officers in the same courses.

Although these proposals did not translate into an eagerness in the directorates and ministries to supply funding, the objectives outlined above were supported in principal, and both customs and especially the police have increased their focus and training on matters of cultural heritage crime. However, since all training on heritage crime issues mainly takes place within separate institutions, there has been limited opportunity to develop and share knowledge between professionals across the disciplinary fields of police, customs, university departments and heritage management, and this is particularly lacking on the level where the actual, practical execution of the legislation takes place.

Fulfilling the regulations on illegal trade

In regard to illegal import and export of cultural objects in Norway, it is likely that this sort within two main groups. The first consist of artifacts that travelers and tourists buy and bring home as souve-



nirs, more or less unaware of the import rules. In addition, it is highly possible that there is a second group of material, consisting of recently looted objects that are transferred through Norway on the way to larger markets in Europe. A combination of factors such as weak border control and geographical proximity to England, one of the world's largest antiques market, makes Norway a convenient transit port for plundered objects. However, more research is required to assess whether this assumption is indeed accurate, or if the majority of objects entering the Norwegian borders stays in the country.

A number of seminars and workshops, like the one this publication is a result of, have been held on the theme of "heritage crime". In this sense one might rightfully claim that there is a certain degree of interdisciplinary exchange within this field in Norway, and lately also between Norway and Poland. However, this is mainly taking place on directorate level, and unfortunately, it does not seem grounded in the practical experiences with enforcing the regulation. The practical results and effects of such seminars on this level are therefore uncertain. In regard to restrictions on import and export, the Arts Council Norway (and before that, the Archive, Library and Museum authority, ABM-u), Norwegian Customs and Excise and the Norwegian National Commission for UNESCO have jointly promoted awareness and cautiousness on the part of travelers and tourists bringing or taking out cultural heritage objects. Brochures and pamphlets emphasize that it is the traveler's own responsibility to ensure they abide by the law. This is undoubtedly beneficial and necessary, but it is important to be aware that while such pamphlets might be enlightening to travelers in general, they are not likely to limit intentional smuggling. Focusing exclusively on souvenir buyers whilst ignoring or forgetting organized crime, can easily become a closed circle: Presuming that few objects are smuggled because very few objects are seized. This challenge and the subsequent lack of import/export data have been discussed before, and is also addressed by the first report submitted by the Norwegian Ministry of Culture in regard to the application of the import/export regulation, indicating problems in regard to the prac-

ticalities of the implementation. Point 5a in the report states:

"(...) As there are no available statistics, it is difficult to assess the volume of illicit export or import of cultural property. According to reports, however, very few items have been seized by the customs service. In 2009 there were five seizures by the customs authorities, which is an increase from 2008"

As long as customs remain uninformed about what kind of material that is subject to the regulation and how the market operates, they are not likely to prevent smuggling beyond occasional tourist souvenirs. Some of the reasons for this are that the actual, practical cooperation between the involved parties is very limited and the flow of knowledge is constricted. In this situation, it is inconceivable that customs will produce reliable statistics or perform targeted checks.

The risk of a negative result

Apart from failing to meet the obligations inherent to the legislation, the insufficient enforcement of the regulations might contribute to create the opposite effects of those stated as purpose of the convention. This risk is linked to the phenomenon that objects on the market tend to have an

ambivalent legal status. This is a paradox inherent to this trade and can be illustrated as follows: an illegally obtained object becomes a legal commodity when passing through enough legal institutions (sold by a legal auction business, getting export permit on its way out of a transit country, and so on). The trade in cultural goods is therefore not easily divided into a legal and open market on one side and an illegal, underground market on the other. The nature of this trade is rather that "illegal" and "legal" objects are traded indiscriminately in both "legal", open-market businesses as well as in dubious, underground transactions. If customs and police do not develop insights into how these markets work, how objects travel, and what defines legal or illegal objects and transactions, they will be at a loss to exploit the tools that the convention offers to curb illegal trade. To the contrary, dormant regulations can easily provide conditions for creating false provenances and legitimacy through inept custom clearance. It is therefore important that customs authorities address the issue of how they can effectively approach illicit import and export. Currently, it seems that objects are handled mainly as taxable commodities, and consequently there is a high risk of providing false legitimacy to declared objects.



If one hopes to effectively execute import/export regulations, and combat illegal trade, looting and theft of cultural objects, these concerns must be addressed. Today, knowledge, research and documentation are anecdotal and limited in Norway, and reliable statistics on volumes of import and

export are lacking. There is an immediate need for up to date analysis and recognition of the implications of illegal trade in Norway and elsewhere. This is also crucial if the police or customs officers involved in enforcing legislation shall receive accurate, relevant and to the point training. Reducing

the illicit trade in cultural objects to a matter of prohibited tourist souvenirs is tempting for policymakers, as it is relatively cheap and uncomplicated. Nevertheless, this approach is not only insufficient, it also entails the risk of legitimizing illicit trade through negligent treatment of the regulation.

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ENDNOTES

1. This article is based on a paper presented at Workshop 3. Communication and education for improving awareness in Oslo 14. January 2011 on behalf of the Department of Archaeology, History and Conservation, UiO. The title of the paper was Educational efforts in an interdisciplinary field: Some experiences.
2. Report title: Å jobbe med kulturminner: En kartlegging av kompetansebehovet blant ansatte innen kulturminnesektoren, toll – og politimyndigheter. Available in Norwegian only.

How can the tourism industry contribute to the protection of cultural heritage?

Rolf Forsdahl

HSH Travel Trade director/lawyer

Cultural heritage and tourist attractions that have historical value play an important role for the tourism industry worldwide. It is therefore natural to think that the most important players in the industry would gladly do what they could to stop the destruction of, or any damage to, tourist attractions, e.g. by encouraging their clients to behave responsibly when visiting cultural heritage sites. At the same time, we need to remember that the world – including the tourism industry – is not as simple as we may think.

Tourism: a diversified industry

Most of the people who don't work in tourism – and, unfortunately, also many of those who do – consider the industry to be much simpler and more homogeneous than it actually is. The fact is that the tourism industry consists of various groups, some of which compete with one another, some of which cooperate and others that are not interrelated at all.

Hotels and transport companies are usually considered to be the most important players in the travel services market, especially by those from outside the tourist industry. In tourism-related terminology, they are defined as travel services providers. Tour organisers constitute a special group of providers offering transport and accommodation (plus other travel services) as one product.

However, without travel agencies as a channel of distribution, most of the above-mentioned groups of providers would be able to sell only a fraction of their services (except for tour organisers, who boast a significant degree of direct sales). This is why many people quite rightly per-

ceive travel agencies and tour organisers as the most important communication platform between the tourism industry and the rest of the market.

At the same time, when describing travel service providers, many people forget about a complex group of companies that largely contribute to popularising private travel – the providers and administrators of local tourist attractions. These may be local tour guides, excursion organisers, event organisers, national parks and administrators/owners of historically and culturally significant attractions. These institutions are often put in the “culture” or “nightlife/entertainment” categories instead of the “tourism” category, even though it is thanks to them that tourists' experiences become more valuable and memorable. It is usually also thanks to them that travellers get a chance to learn more about the local communities they are visiting.

Market: more than just tourists

It is a very common tendency in tourism that the offer is often addressed only to tourists travelling during holiday periods and in their free time. Although this group of travellers is the largest, people travelling on business also play a role in generating the challenges that appear as a consequence of the development of the tourism industry. Those “travelling on business” are in this case engineers, sales representatives or managers who take business trips to meet with their clients or business partners, but the term also encompasses people travelling on account of their position in politics or in various organisations, or on behalf of government offices and institutions, as well as participants of courses,

conferences, etc. It is very important to obtain a global picture of the travel services market if we want to minimise the negative effects of the contemporary tourism industry's influence.

Minimal contact between the traveller and the tourism industry before reaching the destination

It also turns out that many people from outside the tourism industry have a false idea of the communication that actually exists between the industry's representatives and their clients. In most countries of the Western world, the main portion of information regarding travel service sales is available on the Internet. This concerns both the travel agencies' offers and direct sales by service providers. Industry representatives have a strong need to develop flexible and efficient computer systems that will enable them to fulfill this task – online solutions should be simple and concise, should require as few clicks as possible and be limited to providing only the information required by national and EU legislation while at the same time providing information that the clients are looking for. However, even despite this limitation, the client is faced with the need to read and accept quite detailed terms and conditions before the ordering process can be completed. Nowadays, plane tickets are actually available only in electronic form, so the previous “contact” involved in sending or physically delivering them has basically disappeared.

As to holiday trip sales, industry representatives have to adapt to the needs of individual clients. When it comes to business trips, the “clients” are large

companies, so communication occurs at the travel agency-company level, not between the travel agency and each of the travellers. When going on business trips, employees working for smaller companies purchase their tickets mostly like people travelling individually.

It is therefore necessary to realise that there is little chance of providing additional information to travellers, beyond what is required by law, by using marketing and sales activities, and there will be even less of a chance with the increase in the number of tourism industry representatives basing their communication with clients on online solutions.

The only remaining form of person-to-person communication is the contact between the traveller and the provider's staff, as well as contact between the local representatives of travel companies and the local communities that the travellers encounter after reaching their destinations, e.g. hotels, restaurants, local tour guides, etc.

Many ask for or demand information

Legislators in almost every country determine the set of information the traveller should obtain before concluding a travel

services purchase agreement. These can be relatively inaccessible and long texts, but tourism industry representatives are required to provide them. We know, however, that unfortunately an ever smaller group of travellers actually look into the terms and conditions presented to them – they accept them without even reading them.

There are many additional public and non-public institutions and organisations that encourage providing travellers with information that is important to them: health services, customs services and the police, Save the Children, the Red Cross, etc. This list also includes organs and institutions whose task it is to take care of cultural heritage sites, to protect endangered species, etc.

It is understandable that tourism industry representatives, especially travel agencies, have limited possibilities to satisfy such requests and most often limit themselves to providing only the information considered as necessary in terms of travellers' safety.

Social responsibility

A large portion of the information that I have mentioned in the previous para-

graph concerns the travellers' social responsibility and obligations. This is actually information that, by nature, has nothing to do with travel, as proper behaviour is obviously just as important at home. However, due to the fact that travellers visit new and unknown places, face new challenges and, as a rule, when travelling, are less responsible than when they are at home, it is very natural to treat tourism industry representatives as a desirable channel of information through which tourists can be influenced. The tourism industry has been assigned the role of the "teacher of ethics and morality to adults", while it is the other institutions that should be carrying out this task.

There are constant attempts being carried out to raise travellers' awareness in many ways when it comes to issues directly related to the conditions of travel – to pollution and energy consumption ("Green travels"), the choice of sustainable hotels and institutions offering travel services ("sustainable tourism"), respect for the values and culture of the country of destination, etc. In this matter, authorities and organisations, as well as entrepreneurs, have for a long time been trying to develop a common policy and to spread information. These attempts turn out to be the most effective when separated from the marketing activities and sales of specific travel services, because in the purchasing process, the client focuses only on the information related to the purchase – the price, availability, route, itinerary, etc. The rest are inessential details.

Cultural heritage and related special challenges

I don't think I have to explain why cultural heritage is important for the tourism industry. Whatever the main objective of the trip, personal contact with the cultural and historical legacy and nature enriches one's journey and provides travellers with material to tell interesting stories when they come back home. Unfortunately, there aren't many people who will settle for just taking pictures and buying souvenirs – most want to bring something attractive home – either as a souvenir, showpiece or a kind of trophy, i.e. proof of their courage and intelligence. Collectors of culturally and historically significant items can very easily end up in this latter category.





We can distinguish two groups of travellers, i.e. those who destroy, export or vandalise cultural heritage due to bad habits or ignorance and carelessness, and those who act intentionally, exactly because unlawful acts make the trophies all the more valuable in their eyes.

The simplest solution seems to be to raise the first group's awareness by providing these travellers with the appropriate information and by introducing proper checks, bans and penalties in the case of the latter. Unfortunately, in practice, this is not so simple.

Who are the "stakeholders"?

Regardless of the type of action taken, the best results are achieved when action is taken by those who have direct interest in a particular case. This is why it is important to realise who is the most motivated to take the appropriate action for the preservation of cultural heritage sites located in various parts of the world.

In the case of cultural heritage, the "stakeholders" are obviously, first of all, the governing bodies and state-run institutions responsible for the protection of national culture and history. However, more commercial institutions that directly or indirectly build their businesses or their parts around tourist attractions should also be treated as "stakeholders". These are especially local tour guides, souvenir sellers, hotels and restaurants, transport companies, etc. These may also be entire local communities, such as Agra in India. Also, companies organising trips during which cultural heritage sites are one of the attractions become "stakeholders". However, unlike local companies and institutions, this last group is often localised in the country or place that the travellers come from.

I would also include unofficial and charity organisations, whose aim it is to protect cultural treasures, especially specific cultural heritage sites, among the "stakeholders".

Among the secondary stakeholders are control and supervisory bodies, as their foremost concerns are control and supervision as such, and the controlled and supervised objects are only secondary. Tour organisers who include cultural heritage sites located in their destinations in their offers can also be considered as "secondary stakehold-

Local companies that take care of and entertain tourists in the destination area have a very unique chance of being able to influence the tourists' behaviour and to shape their code of conduct while visiting tourist attractions in a given area"

ers" in this context. This group also includes numerous tour organisers who offer trips to, among others, Luxor or Petra as a focal point in their offer. The more commercial significance such a trip has for them, the more important their "position as stakeholder" is.

Then there are the travel agencies and transport companies for whom the sales of trips and journeys do not depend on the existence of local cultural heritage sites. This group, first of all, includes international airlines. Their commercial interest in a potential cultural heritage site in the destination is often very limited – Thai Airways or SAS are not especially interested in efforts to protect the Temple of the Golden Buddha in Bangkok. The same applies to MyTravel, TUI and other tour organisers, who, even though they know that their customers often visit this place when in Bangkok, realise very well that the main purpose of the trip is not a visit to this particular cultural heritage site.

One can of course state that social responsibility rests with all the representatives of the tourism industry and that it should lead to taking action aimed at protecting cultural heritage, regardless of the commercial interest. The companies I have named as examples do indeed spend a lot on various campaigns and promotional activities. However, they make their own decisions about allocating the resources they possess, and the initiatives they support are often spontaneous initiatives or ones intended to promote values that have a central position in their marketing activities, e.g. campaigns for protecting endangered species, reducing pollution, preventing the sexual abuse of women and children, etc.

When it comes to campaigns for the protection of cultural heritage, I am of the opinion that we should, first of all, turn to the business entities that have a commercial interest in a specific cultural heritage site or to institutions within whose jurisdiction such a site is situated.

What actions bring the best results?

Generally, there is a need to act on two levels. These are to spread information that would promote positive and prevent adverse conduct and to take control measures together with the introduction of sanctions conditioned by the law. Travellers who don't respect the need to protect historical monuments may have insufficient knowledge about the destructive influence of situations where, e.g. tourists take fragments of ancient ruins home or buy and take away valuable items, whose export abroad is illegal, as souvenirs. Tourists should also be informed about the potential punitive measures taken for the violation of local/national regulations.

Information

As I have mentioned before, many institutions striving to spread information would like it to be distributed through the agency of the tourism industry. Tourism industry representatives, however, are usually not a very effective channel of distribution for information other than that required by the provisions of the law. The reasons for this include the lack of personal contact with the customer, limited space for information, costs, practical conditions, etc.



We also need to remember that when there is active communication between tourism industry representatives and their customers, the latter usually only wish to obtain information that directly concerns their expectations of the holiday, and all other information is considered to be unnecessary, even undesirable. After the purchasing transaction is completed, there theoretically is a chance to present other information to the customer, but experience shows that this is time-consuming and involves additional costs, which travel companies would rather avoid. TV screens and magazines on board aircrafts are quite an effective channel of communication, but this would involve paid advertising and information space, and bearing in mind the fact that travel companies are under pressure to save as much as they can and to

earn as much as they can, one can hardly expect them to just give up the space they could use for advertising in favour of a free message, no matter how desirable this message might be. Information would therefore have to be distributed via paid announcements. This could be expected from the owner or administrator of a particular cultural heritage site. There are, of course, exceptions to this commercial picture, i.e. some airlines, treated as gateways to national/local cultural treasures, organise permanent exhibitions and information points where cultural heritage sites are widely promoted. In such cases, airport owners make the assumption that the airport benefits from this type of information, as it adds a unique character to the place and is often also a decoration – in other words, this is a win-win situation for the

airport and for the institution responsible for the cultural heritage site. Sky Harbour in Phoenix, Arizona is, or was, an example of such a solution. The Cultural heritage of the Navajo Nation as well as selected species of animals from that area were promoted there.

Tour organisers who send masses of tourists on holiday every year have the chance of providing more information than just that of sales significance by means of their catalogues or websites, as well as in the place of destination in the form of a folder or information available at the hotel or provided by tour guides, etc. The people or institutions interested in providing information about local monuments rated among cultural heritage sites have to create the appropriate information leaflets or brochures themselves and contact the tour organisers who send tourists there, which doesn't necessarily mean that they will consider this information useful to their customers.

Local entrepreneurs, rated among the primary stakeholders, have a chance to effectively provide their customers with information. They need to be actively motivated in this respect and made to understand that such actions will benefit them economically. Local tour guides are in a position that enables them to clearly pass on information at a convenient moment,



when the effect will be the strongest. Unfortunately, it is easy to provide examples showing disparities between what is best for a given monument and the economic interest of private persons or local companies. It is very important that local authorities or institutions managing the cultural heritage site conduct information activities and actively motivate local companies and private persons to promote them.

Preventive measures

Preventive measures can take on many forms – guards, monitoring and surveillance, random luggage checks, etc. Visitors to the Petrified Forest in Arizona, USA, when leaving the area have to go past uniformed guards who randomly check them and carry out random car and bag checks. Each discovery of a fossilised piece of wood is reported and subject to a fine. Local authorities should therefore implement various preventive measures, and the above example shows the cooperation between authorities and stakeholders among the tourism industry representatives.

Local tour guides also have a chance to exercise control. They cannot, of course, be expected to assume the role of the police towards their own customers, but they can and should make sure that their customers are acting properly at the cultural heritage site areas.

The entire monitoring and preventive activity process should be based on a plan that would take into consideration the interests both of the monument and the local community, which would in advance determine how and where checks should be conducted.

Limiting the number of visitors, etc.

There are national heritage sites for which gradual deterioration is a bigger threat than tourists taking away illegal souvenirs. In such cases, an effective solution would be to limit the number of visitors, the area available for tours, etc. This is an initiative that should be introduced by local authorities with almost no exception, although there are examples of tourism industry representatives who decide among themselves how many coach buses or tourists can be brought to a given place at the same time or within a week, etc. There may also

be a need to almost completely shut down a prized monument, such as Machu Picchu, where thousands of tourists almost totally destroyed the treasured buildings and the paths that led to them.

Where such preventive measures are necessary, the local authorities must realise that they are responsible for taking such measures and making sure they are respected. Obviously, it would be best if this were done in cooperation with local entrepreneurs, but their (short-sighted) economic interest is often contrary to the interest of those taking care of and working to protect the monuments.

Conclusion: What can tourism industry representatives do in order to protect cultural heritage?

As I have already mentioned, tourism industry representatives are unfortunately limited in being able to influence the behaviour of travellers by means of additional information. However, there are exceptions.

Local companies that take care of and entertain tourists in the destination area have a very unique chance of being able to influence the tourists' behaviour and to shape their code of conduct while visiting tourist attractions in a given area. It is essential that institutions interested in protecting a particular monument develop information materials in advance and that the parties agree to advocate the protection of cultural heritage sites together. Also, the largest companies that organise tours can provide their customers with such information under the cover of passing on general travel information (e.g. "Good to know" information) and with more detailed information provided at the destination (hotel, transport companies, tour guide). Cooperation between tourism industry representatives and the institutions promoting the protection of monuments, set towards a common goal, enables them to exert a positive influence on the visitors' behaviour.

However, without bans, control and punitive measures, the results will probably not be satisfactory from the point of view of the institutions working towards monument protection. That is why it is so

important for the local authorities to introduce proper initiatives, both individually and in cooperation with tourism industry representatives.

The travel agencies are the group of tourism industry representatives that have the smallest number of opportunities to spread information among travellers. Attempts to activate this group by circles interested in carrying out an information campaign would be a waste of time.

However, taking the development of engineering solutions into consideration, i.e. institutions interested in protecting monuments creating good, attractive websites, can always hope that the tourism industry representatives will share links to their websites on their own, and with the use of social networking sites, these institutions will in time be able to get through to many more people than the tourism industry representatives. Large companies that organise trips have their own Facebook pages, and it surely would not be difficult to convince them to share links to the websites of the institutions that protect the monuments there when they update their profiles.





Typical souvenirs, originals or copies, how do we know?

Tone Simensen Karlgård, Marianne Davy Ball

Museum of Cultural History, University of Oslo

Typical souvenirs, originals or copies, how do we know?' This title was given to us prior to starting work on a presentation from which this paper is derived. Making sense of this vast subject is an interesting challenge to unfold. It is often a confusing subject and people may well have a great deal of ambivalence towards the issue of 'real' or 'fake', especially when the objects in question are their own purchases.

Typical Souvenirs

The term "typical souvenirs" is impossible to generalize. A souvenir can be almost anything. Wikipedia defines a souvenir as being:

'(from French, for memory), memento or keepsake is an object a traveler brings home for the memories associated with it. Souvenirs include clothing such as T-shirts or hats, postcards, refrigerator magnets, miniature figures, household items such as mugs and bowls, plates, ashtrays, egg timers, spoons, notepads, and paintings plus many others. They may be marked to indicate their origin such as "A rock from Stonehenge".'

An authentic stone from Stonehenge! This would obviously be an illicit object and let us indeed hope it is just a random rock, but then, what ethics are involved when someone tries to market ran-

dom rocks as being genuine rocks from Stonehenge?

When we travel as tourists to places we expect to be exotic, we seek real experiences, i.e. 'the authentic', and we are greatly tempted to grab treasures on our journeys. The main purpose of this paper is to raise awareness about the laws protecting objects belonging to the cultural history of the nations or ethnic groups we visit.

Souvenirs and museum collections can be seen as interlinked in many ways. Museums house the souvenirs of collectors, explorers, researchers, missionaries, archaeologists and others who have gathered souvenirs from the past and donated and/or sold their collections to the museum.

Originals or Copies?

Within the ethnographic collections, such as those at the Museum of Cultural History (KHM), University of Oslo, or within the collections found on the ethnographic market, there may well be objects which were once believed to be authentic, but with the use of new analytical methods have since been found to be fakes. In the art market this is an unlimited subject of study. Extreme creativity and skill go into the making of fakes, particularly of historic paintings and other objects of value. Let us state

the obvious difference between a copy and a fake on the market – when a buyer knows an object is a copy – it is a copy, when resold as an authentic object – it is a fake.

The traditional manufacturing methods for objects are well known and many techniques have not changed for centuries. Historical craftsmen and artists often wrote treatises on their skills, and there are several books still in print describing the methods of traditional production in minute detail, such as 'The Craftsman's Handbook' by Cennini and 'The Autobiography of Benvenuto Cellini' – the Mannerist, goldsmith and sculptor. Knowledge concerning how to create surface finishes and patinas is also well known and this information can also be found in books, such as Hughes & Rowe 1991. 'The Colouring, Bronzing & Patination of Metals'. These are legitimate books aimed at aiding the craftsman, not for promoting the art of the forger, and yet they can also fulfill this function.

The production of copies was actually a respected art form in China dating far back in history. Although today China is famous for its many copies of western 'brands', we must remember that this not only a new phenomenon born out of global capitalism but a continuation of a long tradition in China.



Experts build their competence in distinguishing a genuine from a fake through years of handling and examining real objects"

Good fakes from China are almost impossible to spot, and in Ron Gluckman's 2002 article 'Re-Made in China' he states: 'China has become renowned as the world capital of art forgery, which is only fitting, since fraud is considered a fine art in the Middle Kingdom.' He claims that eighty percent of the value of goods for sale in Hong Kong, including those showing up in museums, auction houses and up-market galleries, are fakes. It is actually fascinating how much effort and skill go into this market. With such an impressive percentage of fakes, what are the methods of checking if an item is authentic or not?

How do we know?

There are no definite answers to the question 'How do we know' whether something is an original or a copy. We will, however, present a number of ways in which experts can check the authenticity of objects, but forgers are extremely clever and forgery is an old trade.

The Ming Vase

With ceramic objects, the most reliable method of dating the object is by using thermo-luminescence techniques, which involves drilling a small hole into the object and taking a sample of the powder. When heated, the powder

will give off a faint light signal indicating the length of time that has passed since the object was fired. Yet according to Doreen Stoneham, head of England's Oxford Authentication (the world's foremost lab, in Gluckman 2002), this is no longer a reliable technique for detecting fakes, because 'fake makers' can predict where the samples are likely to be taken from and then inject radioactive material of the required age into these sites. Still, experts build their competence in distinguishing a genuine from a fake through years of handling and examining real objects.

The Mirror

Marieanne encountered an interesting object when she was carrying out a case study for her master's dissertation. She was studying a rare lacquered mirror from China, dated to the Han dynasty (206 BC - AD 220). When she examined the mirror, purchased by a British collector in 1937, she encountered a few puzzling questions. This was the only known lacquered mirror dating from this period. Excavations of Han graves, which expressed the wealth and importance of the dead person, revealed many mirrors used to symbolise the splendour of the heavens during this period, and all of the known mirrors were made of brass, thus making a lacquered mirror particularly interesting.

To examine the mirror, Marieanne drilled a small hole in order to take a sample of the metal and found it to be an alloy that did not exist until a much later date than the Han period. In addition, the lacquer and gesso layer would never have survived if buried in the ground, and several materials used in the decoration were not in use until later either. The decoration was found to be a mixture of elements from both the early and late Han period. She concluded that the mirror was made in the late nineteenth or early twentieth century to meet the demands of collectors. But in order to discover this, many analytical methods had to be used, including destructive testing, scanning electron microscopy, x-ray, x-ray diffraction and fluorescence, infrared spectroscopy and chemical testing.

Lacquered mirror from China, falsely dated to the Han dynasty (206BC- AD 220), Glasgow Museums, Burrell Collection



Although the mirror had been purchased from a reputable dealer for a reasonable sum of money, it was still a fake, but what is also interesting in this case is that because this was such an extremely well-made fake, it is still worth approximately £20 000 on the open market.

Other legal considerations

Other problems where awareness needs to be raised are the legal considerations when buying souvenirs. Objects may be looted during wars, stolen from the legal owner or archaeological sites, or may fall under legislation which prohibits their removal from the country of origin. The materials used in popular, traditionally traded goods may be taken from endangered species, and as such fall under CITES legislation (Convention on International Trade in Endangered Species). Here we choose to focus on the use of products made from the rhinoceros, as this trade is less well known than that of ivory.

The Khanjar

The Khanjar, meaning dagger, is popular across Oman, the United Arab Emirates, the Arabian peninsula and East Africa, and can be seen in the Omani flag. In both Oman and the United Arab Emirates, it is worn as a part of the national dress or as a traditional costume for formal and festive occasions. Although originating in Arabia, it has become very much a part of the African attire due to the long-held trade links between the two areas. Also, some materials used to make the khanjar come from Africa.

For high quality khanjar rhino horn is used for the hilts, carved into a T-shape before being inlaid with silver or gold. The sheath is of leather with a sewn decoration of precious metals. In some places, even today, it is still possible to purchase a newly-made khanjar with rhino horn hilts, this horn is bought on the black market by the kilo. Rhino horn is made of keratin and is not easily identifiable, as it can be mistaken for wood by the untrained eye, because of this it may be purchased and transported unwittingly, thus breaking CITES legislation.



Khanjar, belongs to the National Museum of Ras al Khaimah

Netsuke

Other items made from rhino horn, frequently found on the antiques market, include Japanese netsuke and Chinese cups and bowls. It should be remembered that rhinoceros are not only found in Africa, as there are also the smaller Indian, Sumatran and Javan rhinoceros. The latter are now almost extinct, with less than fifty surviving animals, all currently living in national parks.

The shield

Other objects made from rhinoceros are objects using its skin, such as shields. These are mainly of African origin, such as the one from Somalia held in the collection of KHM. It was bought from a dealer in 1898, (by the then director of the Ethnographic Museum, Yngvar Nielsen). Rhinoceros skin can vary in thickness, from 18 - 45 mm. depending on the body area from where it was taken (ref. U.S. Fisheries and Wildlife Service website) making it very useful as a protective shield. This skin is not easily discernable from other leathers and is often mistaken for buffalo hide.

As mentioned before, ivory is also protected under CITES regulations, but what many people do not realise is that ivory is not only obtained from elephants, but also from the hippopotamus, whale, narwhal, walrus, etc., all of

which are protected. Other materials include many big cat and bear claws and teeth; various furs, skins and leathers; tortoise shell; woollens from the shah-toosh goat and abalone shells. The list of animal products is very long, but CITES also covers birds, so that articles made from feathers or beaks, such as hornbill casques, fall under the legislation; it also covers flora, as baskets from South-East Asia may be made from the stems of endangered orchids, they are also commonly sold as sprouts to tourists on the Bahia Coast of Brazil.





Shield made of Rhino-hide, purchased in 1898, belongs to The Ethnographic collection at the Museum of Cultural History, University of Oslo

As members of ICOM, the International Council of Museums, we end this brief paper by advising tourists to visit museum shops or to look for good quality copies. One example is the store in the Topkapi Palace in Istanbul. The ceramic reproductions on sale there are beautiful, come with certification, and are no more expensive than those found in other shops around town. But if you enjoy haggling, then the museum shops are not the best places.

Practical advice:

- » Ask for certification.
- » Look for Fair Trade labels.
- » When in doubt, do not purchase objects that may be illegal.
- » Check the legislation of the country you are visiting, you may be required to have exit permits/verification or be forbidden to export certain types of artifacts.
- » Check the legislation of your home country, some materials are not allowed without quarantine precautions, others not on CITES lists may also be banned.

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<http://www.copiesandfakesinart.com>

<http://www.destinasian.com>

Useful information on copies and fakes in the world of antiques can be found on the Museo d'Arte e Scienza website: <http://www.museoartescienza.com/Laboratorio.Eng.htm>

Marieanne Davy Ball, an accredited member of ICON, is a freelance, ethnographic conservator with a PHD in Anthropology, researching traditional technologies and an honours degree in design.

Tone Simensen Karlgård has been working in museum exhibition and education at KHM since the mid-1990s. She is a social anthropologist concentrating mainly on projects based on ethnographic collections.

Crimes against archaeological heritage in the context of how archaeology is perceived by society

Marcin Sabaciński

National Heritage Board of Poland

A dissertation on the above-mentioned subject must be commenced by an attempt to specify what an offence against heritage is. This concept is understood differently in various countries depending on the regulations in force. These differences result from disparate national and social customs as well as from the varied construction of the established legal systems. It must be remembered, however, that the basic principles of heritage protection have a universal character.

It therefore seems appropriate to explain which method of proceeding has been recognised as proper by the international community as far as archaeological heritage is concerned. International legal acts constitute the guidelines for the signatory states, which are required to supplement their national legal systems with the regulations. Regulations formed in this way contain, for instance, descriptions of punitive measures that can be called offences (or misdemeanours) only when a given condition has been satisfied. Though established worldwide, implementation of the heritage protection strategies into the legislation differs, therefore, the measures taken towards what is understood to be an offence against archaeological heritage differ as well.

The international regulations are relatively detailed, however, without analysing them thoroughly, it has to be acknowledged that among the principles that have been set out, the one of utmost importance is the preservation of the largest number of archaeological heritage monuments in an unchanged state, as much as it is possible, and at the place where it was originally found, thus keeping future generations in mind.

In Polish legislation, this norm has been clarified by Article 5 of the Constitution of the Republic of Poland, which states that:

The Republic of Poland shall [...] safeguard the national heritage and shall ensure the protection of the natural environment pursuant to the principles of sustainable development.

The principle of sustainable development states that a civilisation's current development allows it to use existing resources and to fulfill current needs in such a way as not to decrease the chance for future generations to fulfill those same needs.

Carrying out this principle in relation to archaeological heritage is especially important because its substance is unrestorable, i.e. it is impossible to recreate the original monumental matter of a disturbed archaeological site. Each interference in the structure of the layers of ground constitutes irreparable damage. Even archaeological excavation work is a process that irretrievably damages the studied object, a scientific experiment that cannot be repeated. Therefore, in the legislation concerning the protection of archaeological heritage, and while establishing the doctrine of conservation in Poland, the greatest emphasis has been placed on preserving the largest number of immovable archaeological monuments (archaeological sites) in an intact state.

As far as criminal regulations are concerned, the Act on the Protection of Monuments and the Guardianship of Monuments¹ includes fifteen of them. This number should be expanded by regulations of the Penal Code concerning the desecration of graves and destruction and dealing in or receiving stolen property of

significant cultural value. In this context, Article 35 of the Act on the Protection of Monuments and the Guardianship of Monuments, which specifies all movable archaeological monuments from the territory of Poland as the property of the State Treasury, is of fundamental importance. These monuments have *res extra commercium* status and cannot be acquired by prescription or in good faith (M. Cherka et al., 2010: 169).

The most severe offence against the property of archaeological heritage is disturbing the layers of ground of an immovable archaeological monument (archaeological site)², i.e. destroying or damaging the monument (Article 108 of the Act). This results from the aforementioned fundamental principles of heritage protection. When taking into consideration the prohibition of trading in and collecting artifacts, one can see that the legislators were keen on protecting the integrity of the archaeological sites in this way.

The picture presented above does not fit the concept envisaged by society in general. Archaeological monuments are seen, above all, as objects to be used for research, not as permanent elements of cultural heritage. In a somewhat wider context, archaeology is considered to be a discipline for a closed circle of researchers which has no influence on fulfilling society's essential needs. It could be contended that it is seen as a form of entertainment for the participants of the studies as well as their recipients. The media's reports on research are based on sensational topics – the discoveries and their material value are presented instead of the changes that these bring into providing a greater understanding of the past. Researchers who

are mostly interested in publicising their achievements are also becoming a part of this trend on a large scale. These reports have little room for honest scientific data and are not concerned with information about the necessity of protecting monuments, thus there is a lack of awareness of the principles or even the necessity of heritage protection.

The way archaeology is generally received also depends on the way archaeologists perceive their own role. Despite the fact that the issues of conservation have begun to be lectured in institutions of higher education, for most archaeologists it still remains but a theory. Responsibility for this aspect of carrying out the profession has been "handed over" to the national administration, whereas archaeologists have assumed the role of the audience, and speak up only in situations concerning excavation work or the acquisition of monuments.

This also leads to the progressive destruction and shrinking of sources of historical monuments, whose elements, which are currently not included in the research process, are of permanent interest to specialists, and those studied by means of excavations are irretrievably disappearing. This lack of a multifaceted concern for the future of archaeology as a profession, which is directly dependent on the good condition of archaeological heritage, is noticeable. What we fail to notice is the fact that by using archaeological heritage solely as a base for scientific research that is becoming more and more hermetic in reception leads to its disapproval. This also leads to greater difficulties in creating the appropriate conditions for an archaeolo-

gist's work as far as both finances and organisation are concerned. This also applies to working on the social reception of the usefulness of an archaeologist's work, and especially on the necessity of monument protection. As a result of this lack of proper interaction with society, researchers lock up in their own circle along with their real successes, problems and needs. In turn, this significant potential of society and the media understanding the ethos of an archaeologist's work still remains unfulfilled.

At this point, and keeping in mind the outlined relationships, we shall proceed to selected examples of violating the regulations of monument protection law.

The first category of persons whose actions may violate the law includes construction investors and companies contracted to perform earthworks for them. The responsibility of the person or organisational entity that plans construction work, earthworks or a change of the current activity being performed in the area where the archaeological monuments are present is to conduct rescue archaeological excavations within the scope specified by the Provincial Conservator of Monuments³. Analogous obligations pertain to persons who find an archaeological monument during such work. As has already been mentioned, destroying the archaeological site or appropriating its movable relics constitutes an offence according to the Polish law.

Instances when a lack of exhaustive data concerning the localisation of archaeological sites or the failure to recognise a new found site have caused their unintentional destruction are obvious, however, experience has shown that deliberate acts of de-

stroying archaeological sites during investments continue to occur.

What inclines people to violate the law deliberately? According to common belief archaeological works are a long and costly process. Investors, especially those who have small budgets, attempt to avoid any additional expenditures. Furthermore, the vision of possibly extending the completion of an investment is a key issue even for enterprises for whom research costs constitute a minimal part of the total costs. The stereotype that there was a lobby which forced biased regulations ensuring earnings for archaeologists at the investors' expense is also rather common. Investors, failing to understand the purpose of archaeological works, and showing no interest in their effects, perceive the necessity to conduct research as a clerical malice and a manifestation of the state's bureaucratic nature. At the same time, the low detection rate in the category of crimes against archaeological heritage encourages a sense of impunity.

In most cases, this anxiety concerning research is a result of ignorance. It is unquestionable that every construction investment generates unforeseen costs and pauses, therefore, disturbing the work schedule due to a newly found archaeological site is no different from other random incidents⁴. In the case of archaeological sites that have been entered into the Register of Monuments, excavations can be planned and performed in good advance⁵. Furthermore, there is a regulation in force which states that if the planned research cost exceeds 2% of the planned investment costs, the Minister of Culture



Archaeological monuments are seen, above all, as objects to be used for research, not as permanent elements of cultural heritage. In a somewhat wider context, archaeology is considered to be a discipline for a closed circle of researchers which has no influence on fulfilling society's essential needs"

and National Heritage will provide the investor with an upfront subsidy to cover this surplus⁶.

Another selected example of violating the monument protection law is the appropriation of movable archaeological relics by random finders. Finding a movable relic, frequently a spectacular item, is connected with the temptation to keep it. This results from several conditions we are rarely aware of, e.g. our common cultural code makes us believe that such a chance finding could change our entire life. We owe this conviction to the fairy tales and legends that have been an intrinsic element of our upbringing and which currently harmonise with the models of popular culture presented by the media. Therefore, an unselfish act of handing over the found item may turn out to be difficult, especially if we are convinced that it is not a lost item whose owner could be found. Many years of communism in Poland have resulted in a lack of trust towards state institutions, which is still difficult to amend, therefore, even reporting such an item is a source of problems. Low awareness of the law regarding the finder's duties and responsibilities, as well as his or her rights, is also an issue. The random finding of an archaeological relic entitles the finder to a prize – which may be a diploma, but is usually a financial bonus amounting to as much as thirty times the average salary.

A group particularly exposed to conflicts with the monument protection law are the so-called treasure hunters. For some of them, the cultural institution's offer of being close to original historical monuments turned out to be insufficient, and there are many active persons only interested in the economic aspect of searching⁷, there is also a group that justifies its involvement in spending their time actively outdoors. The tendency to take over areas which have been legally assigned to professional archaeologists can be observed among many treasure hunters. The aspiration of many groups and persons to participate in field research conducted by researchers and to cooperate with them is visible, however, an equally strong aspiration to compete with them can be noticed. A common trait of treasure hunters is their attempt to acquire the found objects. Collecting is in this case the characteristic which consolidates



Byczyna, Opole Voivodeship, early medieval cemetery destroyed by sewerage pipes
Photograph: Magdalena Przysiężna-Pizarska

the circle and which determines this social group's existence as a whole.

Detectorists' most common conflict with the law has been their illegal searching for historic monuments⁸. Another general violation is the appropriation of found items which are the property of the State Treasury. Therefore, the devastation and plundering of archaeological sites continues to repeat.

The way archaeology is perceived in this circle of treasure hunters fits the above-mentioned stereotypes very well. In the case of this group, there is an exceptionally strong manifestation of seeing the mission of archaeologists as that of being narrowed down to acts of the systematic collection of artifacts. This common lack of knowing the legal regulations and principles of heritage protection, ignoring basic types of movable archaeological monuments and indicators of archaeological sites, in connection with the way one's own passion is perceived as presented above creates a serious danger of the violation of the regulations in force.

The last of the discussed groups are archaeologists and museologists who maintain informal contacts with persons professionally involved in treasure hunting or with holders of national archaeological relics (which cannot be owned by private persons). However, it is not the relations themselves but the specific activities which take place in given situations that violate the law. If an archaeological relic is acquired by a plunderer or an unknowing finder, priced by a museologist or another type of assis-

stance is offered in selling or hiding it, and particularly when the item is bought, the offence of dealing with or receiving stolen goods takes place.

It is common, yet unofficial, knowledge that museologists purchase archaeological relics from the persons offering them, or borrow them for documentation purposes and then return them afterwards. The motives for this type of conduct can be explained by repeating and supplementing the patterns presented in the case of archaeologists-researchers. Due to their profession, museologists are even more convinced that the superior goal of archaeology is the gathering of artifacts, new findings and the constant accumulation of data. In the case of having contact with a historic relic yet unknown to the scientific community, all the activities of such persons are focused on taking it over for the museum and registering the greatest amount of information about the circumstances of its discovery. This common emotional approach leads to spontaneous purchases financed by the persons themselves, as well as to making any attempts necessary to arouse the seller's interest in maintaining permanent communication ties and a good relationship with the museum. The reason for this is the lack of consenting to the loss of scientific information. These procedures bear similarity to the cataloguing of private collections at the beginning of the development of archaeology as a science and are treated as such. Their harmfulness to society, which lies in an intentional

breach of the law, creation of permanent mechanisms leading to the destruction of archaeological heritage resources and opposition to the rules according to which the department of public administration functions in relation to monuments, is of no importance. The sense of a mission and of scientific curiosity prevails. From the museologists' perspective, the question of preserving heritage in situ is the responsibility of other institutions, and the effects of the described type of conduct are perceived only in the context of acquiring benefits for the museum or for science. A similar way of thinking and analogous behaviour are characteristic of many academic archaeologists⁹.

Specialists, whom outsiders see as authorities in the field of historical monuments, enforce inappropriate patterns of conduct by overstepping the edge of the law, and as a matter of fact, exposing both themselves and the persons whose trust they seek to the risk of legal punishment. The lack of an explicit message with regard to the reliable presentation and observation of monument protection regulations, which applies both to the archaeologists and museologists who cooperate with amateur archaeologists, is a mistake that

has immeasurable consequences. Persons operating on the border of the law or who transgress it feel excused due to the interest they receive from specialists. Quite frequently, they have the sense of a mission and feel fulfilled in such activities. In the case of interference from law enforcement bodies, it turns out that acting in good faith does not protect them from the legal consequences, and the protection of the authorities is of no importance in situations of violating the law. This consequently leads to a sense of injustice and opposition to the regulations in force, to national institutions and the principles of monument protection.

Summarising the discussion presented above, it has to be acknowledged that one of the main reasons this described state of affairs exists is society's low awareness of the issue when it comes to the goals and methods of archaeology and the principles of heritage protection. The repetition of stereotypes and improper conduct contributes to a gradually higher misunderstanding between the organs responsible for monument protection and the persons who are in touch with archaeological monuments, including professionals and supporters of archaeology.

Presently, the largest part of the state's strategy is based on the principle of sustainable development. The field of monument protection also strives for a balance between the fulfillment of current needs and obligations towards future generations. Therefore, any activity which results in a disturbance of the archaeological, historic substance without any real need or in a lawless manner is rejected, and the failure to comply with this norm leads to a violation of the law. It may seem that persons interested in the issue of archaeology, due to various reasons, should be knowledgeable about the principles of proceeding with historical monuments and should observe these. Experience shows, however, that this is not the case. Even if the regulations are known, the reasons for which they have been enacted in their binding form are not clear or approved of. In this case, only genuine education in the field of the principles of heritage protection could lead to a decrease in the scale of offences against archaeological monuments. It should be remembered that neither the failure to accept legal regulations nor being unaware of them constitute an exemption from legal responsibility.

REFERENCES

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ENDNOTES

1. The Act on the Protection of Monuments and the Guardianship of Monuments from 23 July 2003 (Journal of Laws of 2003, no. 162, item 1568, as amended).
2. In this respect, the only activity that is not considered an act of destroying a monument and is not liable to punishment is archaeological research conducted by certified researchers (archaeologists who hold Master's degrees and have documented experience) by the permission of the Provincial Conservator of Monuments.
3. Article 31 of the Act on the Protection of Monuments and the Guardianship of Monuments from 23 July 2003 (Journal of Laws of 2003, no. 162, item 1568, as amended).
4. More information about this subject can be found at: <http://www.uspro.pl/articles/view/175/Dlaczego+budowla%C5%84cy+niew+zg%C5%82asza%C4%85+odkry%C4%87++zabytk%C3%B3w+archeologicznych%3F.html>
5. An excellent example of archaeological works performed in advance in a way that does not collide with the investment are the activities of the General Directorate for National Roads and Motorways, which currently funds the largest number of archaeological rescue research works conducted in Poland along the route of its investments.
6. The regulation described is Article 82a of the Act on the Protection of Monuments and the Guardianship of Monuments. These regulations are not applicable in situations when an organisational entity belongs to the public finance sector or when these activities are to be performed with the use of European Committee funds, the European Economic Area Financial Mechanism or the Norwegian Financial Mechanism.
7. High unemployment and the related impoverishment in many regions of Poland have a large influence on the fact that among treasure hunters there are also people who are set from the start on making a profit. However, the continuing low detection rate of such crimes is also of importance. The prevailing vision is that of a relatively safe profit disproportionate to the invested resources.
8. Recently, in the circle of treasure hunters, the conviction has been popularised that only searching for treasures at sites listed in the Register of Monuments requires permission. This is an erroneous conviction and has been confirmed as such by the legislator, i.e. the Ministry of Culture and National Heritage (in an official letter from 7 May 2010 from the director of the Monuments Preservation Department of the Ministry of Culture and National Heritage to the West Pomeranian Provincial Conservator of Monuments).
9. It has to be mentioned that the argument for many persons is the lack of other possibilities of reaching the relic and its holder after leaving the building of the museum. The activities of law enforcement bodies lead to completely blocking museums from this type of information. Therefore, such initiatives are considered to be the lesser evil in the context of the current lack of effective control of field heritage resources and the general weakness of the units for monument protection as well as the low detection rate and relatively low number of guilty verdicts in cases of crimes against historical monuments. Spatial restrictions do not allow the author to discuss this subject more extensively.

Building awareness of the need for cultural heritage protection

Małgorzata Hudyma

Director of The Polish Tourist Information Centre in Stockholm

Polish National Tourist Office – structure, tasks, tools, activities.

The Polish National Tourist Office is a public institution established under the Act on the Polish National Tourist Office of 25 June 1999, under the authority of the Minister of Sport and Tourism. The primary purpose for its establishment was to strengthen the promotion of Poland as a tourist destination, both in the country and abroad. The Office creates the basis for cooperation between national administration bodies, local authorities and the tourist industry, represented by economic self-governments and associations. The main tasks of the Polish National Tourist Office include:

1. promoting Poland as an interesting tourist destination,
2. ensuring the functioning and development of the Polish tourist information system, both in the country and abroad,
3. initiating, providing opinions on and supporting plans for the development and modernization of the tourist infrastructure,
4. performing other tasks entrusted by authorities and institutions...
5. inspiring the creation of regional tourist organisations, whose scope of activity would encompass the area of one or more voivodeships, and local tourist organisations, whose scope of activity would encompass the area of one or more units of local governments, as well as cooperation with such organisations.¹

In accordance with the Statute of the Polish National Tourist Office, the objectives and tasks specified in the Act are carried out primarily through:



1. preparing and publishing promotional material and organising national stands during tourist fairs, exhibitions, shows, congresses and seminars, as well as disseminating knowledge about Poland as an interesting tourist destination, especially through the agency of Polish Tourist Information Centres...
2. conducting statistical and marketing analyses, expert evaluations and forecast studies in the area of tourism,
3. initiation of and organisational support for activities taken by relevant central government bodies and national organisational units, local authorities and organisations of entrepreneurs from the tourist industry, for the development and modernization of the tourist infrastructure in terms of improving the quality of tourist services, the development of tourist products and their promotion,

“*After a short period of decline, the global trends in the development of tourist traffic again indicate an increase in the number of travellers. This situation is also reflected in Poland*”

4. ensuring the functioning and development of the Polish tourist information system, both in the country and abroad, and supporting works on the creation and development of the tourist services reservation system,
5. expressing opinions on plans strategic from the point of view of Poland's interest, developed by the relevant minister for tourist affairs, local authorities and organisations of entrepreneurs from the tourist industry,
6. initiating and expressing opinions on the plans and long-term programmes for the promotion, development and modernization of the tourist infrastructure, especially in terms of improving the quality of tourist services and the development of tourist products,
7. cooperation with regional and local tourist organisations².

According to the above-mentioned Act on the Polish National Tourist Office, the governing bodies of the Polish National Tourist Office are the Council and the President of the Polish National Tourist Office. The tasks of the President of the Polish National Tourist Office include: "establishing organisational units of the Polish National Tourist Office, including units acting abroad, and particularly tourist information centres³."

Currently, there are fourteen Polish Tourist Information Centres with offices in the following countries: the Netherlands, Belgium, the USA, Germany, Sweden, the UK, Italy, France, Austria, Hungary (a branch of the Austrian centre), Spain, Russia, Japan and Ukraine.

The Polish Tourist Information Centre in Stockholm was established on 28 October 1991. It functions according to the Centre's Rules and Regulations (the current version, as of 21 November 2007). On the organisational level it comes under the authority of the President of the Polish National Tourist Office and does not have a legal personality. The Centre is located in Stockholm and its area of activity encompasses the Nordic countries, i.e. Sweden, Norway, Denmark and Finland.

According to the Centre's Rules and Regulations, the tasks of the PTIC Stockholm include:

1. shaping a positive image of Poland as a tourist destination and promoting Polish tourist products,
2. initiating and carrying out marketing studies related to travels to Poland,
3. making efforts towards expanding the presence of the Polish offer on the market the Centre functions in,
4. sharing and disseminating information related to travelling to Poland,
5. gathering up-to-date information on the developments in terms of travel to Poland,
6. gathering information on the activity of Polish tourist companies in the area the Centre functions in,
7. cooperating with Polish agencies and representatives when carrying out tasks in the area the Centre functions in⁴."

PTIC Stockholm carries out these tasks using the tools identified in the Statute of the Polish National Tourist Office. The tools include in particular:

1. organising national stands during tourist fairs and exhibitions, as well as participating in fairs and exhibitions organised by third parties,
2. organising promotional events,
3. organising press conferences,
4. carrying out promotional campaigns in the mass media,
5. organising trips to Poland for representatives of the mass media, the tourist industry and travel companies,
6. organising working seminars and workshops for representatives of the tourist industry and travel companies,
7. gathering, publishing, sharing and disseminating promotional and informational materials about Poland,
8. carrying out marketing studies,
9. providing tourist and travel information⁵."

The responsibilities of the PTIC Stockholm also include managing the www.polska.travel national portal website in the Swedish, Danish and Norwegian language versions, as well as handling news and current events relevant to users from the Nordic markets.

Polish cultural heritage and threats resulting from increased tourist traffic.

According to UNESCO (United Nations Educational, Scientific and Cultural Organisation) regulations, apart from books, works of art, historical monuments and scientific achievements, cultural heritage also includes oral traditions and expressions. Therefore, the following shall be considered "cultural heritage":

- » "monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features which are of outstanding universal value from the point of view of history, art or science;
- » groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- » sites: works of man or the combined works of nature and man, and areas



including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view⁶.”

There are 13 sites in Poland that meet the strict criteria for sites considered to constitute elements of cultural heritage. These are:

1. Cracow's Historic Centre
2. Wieliczka Salt Mine
3. Auschwitz-Birkenau. German Nazi Concentration and Extermination Camp (1940-1945)
4. Belovezhskaya Pushcha / Białowieża Forest
5. Historic Centre of Warsaw
6. Old City of Zamość
7. Medieval Town of Toruń
8. Castle of the Teutonic Order in Malbork
9. Kalwaria Zebrzydowska: the Mannerist Architectural and Park Landscape Complex and Pilgrimage Park
10. Churches of Peace in Jawor and Świdnica
11. Wooden Churches of Southern Little Poland – Binarowa, Blizne, Dębno, Haczów, Lipnica Murowana, Sękowa
12. Muskauer Park / Park Mużakowski
13. Centennial Hall in Wrocław.

As we can see, cultural heritage also includes elements comprising the natural environment, of which national parks with protected resources of fauna and flora of a given area are a good example.

However, we cannot forget that elements of our heritage also include other sites important from the perspective of our national and local identity. These are, among many others, the wooden churches of the Beskids and the landscape of the region of Mazovia. Their number is significant, but the level of protection varied. Widespread awareness of the need to protect these sites is therefore very important for their future existence.

After a short period of decline, the global trends in the development of tourist traffic again indicate an increase in the number of travellers. This situation is also reflected in Poland. In 2010, the number of tourists in Europe was more than 476.5 million, 3% more than in 2009. Over 58 million visitors came to Poland, 8.4% more than in the previous year. Cheaper flights, attractive offers of the developing tourist

infrastructure and a universal increase in the amount of free time (longer leave periods, free weekends and a growing number of holidays) have had a positive influence on the increase in the number of travellers. Economic market globalisation also means more frequent business trips.

However, if we look at the Polish National Border Guard statistics, the phenomenon of the illicit export of cultural property is growing disproportionately to tourist traffic rates. In 2009, attempts to export 178 objects of this type were noted, and their total value amounted to 12 855 PLN. Just a year later those numbers were already 987 objects and 134 400 PLN, respectively. Obviously, we need to take into consideration the fact that the Border Guards are improving their effectiveness each year and gaining more and more experience in combating crime, yet in my opinion this is also the result of increased tourist traffic, together with the lack of public education about the need to protect the cultural heritage found in holiday destinations.

The possibilities for building awareness of the need to protect cultural heritage included in the activities of the Polish National Tourist Office based on the example of the Polish Tourist Information Centre in Stockholm.

During workshop meetings in Oslo in January 2011, it was established that institutions handling tourist traffic in the country of destination have the largest educational influence in terms of building awareness of the need to protect local cultural heritage. After arriving at their travel destination, the visitors focus their interest on local attractions and the instructions they receive from hotel staff, a local tour guide or an employee of a tourist information centre are the most powerful messages.

Polish Tourist Information Centres, fulfilling the function of the main sources of tourist information outside the country's borders, can also have a significant influence on strengthening the protection of our cultural heritage. In 2010, the Centre in Stockholm sent out more than 750



packages of promotional material and answered over 900 questions submitted by e-mail, fax and traditional mail from all the Nordic countries. The Centre was visited by more than 550 Swedes interested in finding out more about Poland as a tourist destination. It appears, then, that already at the stage of planning their trip by potential tourists, we can build up their awareness of our cultural heritage, for instance, by attaching additional material on the protection of historical monuments and historical objects and the natural landscape of Poland to the standard information packages.

Another element of our work related to disseminating tourist information is the presence of the Polish Tourist Information Centre at various mass events. This concerns information stands built during tourist fairs, festivities, concerts and sports competitions or championships, as well as presentations, seminars and workshops. In 2010 we took part in the 4 largest fair events in Scandinavia and in 24 other public events, altogether reaching over 300 000 potential tourists. This channel of distribution can be used for information materials on the protection of Polish historical monuments and natural environment.

An important element of the Polish National Tourist Office's tourist information system is the www.polska.travel website, which is available in 19 different languages. Since December 2010 (until then, there was only a Swedish language

version), three language versions have been available for the Nordic countries of Sweden, Norway and Denmark. In 2010 our Nordic portal websites were visited by over 47 500 users – five times as many as in the previous year. In countries where almost 90% of the citizens have access to the Internet, and approximately 70% of travels are booked online,

this tool has had the greatest communicative reach. Placing information on the protection of cultural property, historical monuments and the natural environment during this period of increased tourist travel planning, and possibly in the best visible spot, can be a valuable supplement to the standard information about our country's tourist attractions.

As part of its activities related to tourist information, the Polish Tourist Information Centre in Stockholm is at the National Heritage Board's disposal when it comes to the distribution of information materials, both printed and digital, that might have a positive influence on increasing the level of awareness among travellers of the need to protect cultural heritage.

ENDNOTES

1. The Act on the Polish National Tourist Office of 25 June 1999 (Journal of Laws of 1999, No. 62, item 689, No. 22, item 273 and of 2001, No. 22, item 249) Art. 3
2. Regulation of the Minister of Economy of 28 April 2006 on the establishment of the statute of the Polish National Tourist Office (Journal of Laws, No. 80, item 559 and of 2007, No. 107, item 735), Regulation of the Minister of Sport and Tourism of 28 September 2008 amending the regulation on the establishment of the statute of the Polish National Tourist Office (Journal of Laws of 30 September 2008), Regulation of the Minister of Sport and Tourism of 29 June 2010 amending the regulation on the establishment of the statute of the Polish National Tourist Office, art. 2.
3. The Act on the Polish National Tourist Office of 25 June 1999, Article 3 (Journal of Laws of 1999, No. 62, item 689, No. 22, item 273 and of 2001, No. 22, item 249) Art. 11 clause 1, sub-clause 4.
4. Rules and Regulations of the Polish Tourist Information Centre in Stockholm, art. 8
5. Regulation of the Minister of Economy of 28 April 2006 on the establishment of the statute of the Polish National Tourist Office (Journal of Laws, No. 80, item 559 and of 2007, No. 107, item 735), Regulation of the Minister of Sport and Tourism of 28 September 2008 amending the regulation on the establishment of the statute of the Polish National Tourist Office (Journal of Laws of 30 September 2008), Regulation of the Minister of Sport and Tourism of 29 June 2010 amending the regulation on the establishment of the statute of the Polish National Tourist Office, art. 17.
6. Convention concerning the Protection of the World Cultural and Natural Heritage, Article 1.



Methods of public communication

Axel Mykleby

Norwegian Blue Shield Committee

Public and private cooperation/Public private (NGO) partnership

- » There is a long tradition of public and private partnerships in Norway. This includes cooperation between government, county, municipal and voluntary organisations. As part of our efforts to prevent illicit trafficking in cultural property and the looting of archives, libraries, museums and cultural artefacts, Norwegian ICOM (the Norwegian section of the International Council of Museums) and the Norwegian Blue Shield Committee, have, among other organisations, cooperated with the following institutions:
- » Arts Council Norway (Norsk kulturråd)
- » Directorate for Cultural Heritage (Riksantikvaren)
- » Norwegian National Commission for UNESCO (Den norske UNESCO-kommisjon)
- » Norwegian Customs Authority (Norsk Tollvesen)
- » Norwegian National Authority for Investigating and Prosecution of Economic and Environmental Crime (Norsk Økokrim)
- » Norwegian Directorate for Natural Management (Direktoratet for naturforvaltning)
- » Norwegian Food Safety Authority (Mattilsynet)
- » Building Service of the Norwegian Defence (Forsvarets bygningstjeneste)
- » Norwegian Red Cross (Norges røde kors)

The Norwegian Blue Shield Committee

This is the Norwegian national committee of the ICBS, the International Committee of the Blue Shield, which is a cooperative body between four organisations; ICOM, ICOMOS, IFLA and ICA. The commit-

tee aims to collect and disseminate information, coordinate efforts and influence governments and professionals to protect cultural heritage during armed conflicts or disasters. The International Blue Shield Committee was formed in 1996. The committee takes its name from the blue shield, which is the symbol of the Hague Convention of 1954 (Convention for the Protection of Cultural Property in the Event of Armed Conflict).

The Norwegian Blue Shield Committee was launched in 2000 when representatives of the four organisations met and took the initiative to organise a working group which then was transformed into a national committee. The committee is working on both Norwegian and international issues. In Norway, the committee has also been developing a national contingency plan for the protection of cultural property in the event of war or natural disasters. The committee

has put pressure on the Norwegian government to ratify international agreements, such as the UNESCO Convention of 1970 on the illicit trade of cultural property, as well as the Hague Convention's second protocol, 1999. The committee has also dealt with individual cases nationally with the aim of preventing damage to cultural property due to war or natural disasters. The committee has been dealing with similar measures on an international level. Among other issues, the destruction of cultural heritage in conflict zones, such as Iraq, Afghanistan and Palestine, have been raised along with the initiative brought to the Norwegian authorities so to contribute to the rescue of destroyed, damaged and endangered heritage there. The committee has also provided training lectures on cultural heritage and international laws to Norwegian military personnel before their missions in Afghanistan.

The Norwegian City of Namsos, 1940





The committee is working on both Norwegian and international issues. In Norway, the committee has also been developing a national contingency plan for the protection of cultural property in the event of war or natural disasters”

The Association of the National Committee of the Blue Shield (ANCBS)

The Norwegian committee with Mr Leif Pareli (ICOM representative) has also actively participated in the process of establishing an organisation for the national Blue Shield committees, ANCBS, which was founded in 2008. At the inaugural meeting Mr Axel Mykleby (ICOMOS representative) was elected as the new organisation's treasurer. There are approximately 20 Blue Shield National Committees on all continents and about 20 more are being established.

The ANCBS has participated directly in rescue operations after the collapse of the City Archives in Cologne, Germany, and the earthquake in Haiti as well as national committees. In connection with the revo-

lution in Egypt, ANCBS was the first study group in place to document the looting and destruction there.

Prevention (Awareness building)/Priority Groups (Focus Groups)

Blue Shield Norway (BSN) and its member organisations are very keen to be in dialogue with the members and staff of partner organisations. BSN uses some of the institutions as observers within the committee. Joint arrangements, such as seminars, are held and BSN has participated for the last 3 years in a stand at the International Tourism Fair in Lillestrøm, near Oslo. Key groups which should know about international cultural heritage conventions and about the prevention of illegal trafficking and looting are:

- » museum staff
- » experts on cultural artefacts
- » military personnel preparing for international operations
- » foreign service employees
- » antique dealers and auctioneers
- » staff of tourism organisations
- » tourists.

How we work

The problem for organisations is that their members have very limited time and the BSN has no budget and depends on small annual contributions. Cooperation is therefore necessary in order to use common resources. We take turns to write press releases which may be used internationally, or the other way round, so that international messages can be used at a national level. The press, radio and TV



are interested, but it is time-consuming to supply journalists quickly with reliable facts and illustrations from disasters and military operations. We are completely dependent on our international network, which regularly provides updated information which must be monitored and evaluated. Our members have given interviews and written articles in magazines and newspapers. At the tourism fair we meet both professional organisers and the general public, which we otherwise find difficult to engage in a dialogue. At the fair we also find museums and organisers of cultural tourism who are very interested in disseminating knowledge about legal and illegal trade.

Military and relief organisations are usually those to first enter areas of war and disaster. We have therefore prioritised our focus on these groups. Lectures directed towards employees of the armed forces have been positively received and should be continued and developed.

A new area of communication for us is the use of playing cards, which have been used successfully for a number of years in the armed forces of the Netherlands, UK and USA. There are plans to produce decks of cards containing information on the protection of cultural heritage during wartime, disasters, and for tourists.

Blue Shield Norway and Norwegian ICOM have, over the years, organised several conferences and seminars in collaboration with other organisations, but members have also regularly participated in the audience and as presenters. It is important that as many members as possible are trained to take on such tasks in order to disseminate knowledge and to relieve the organisation's own members. Dissemination through websites, such as Twitter and Facebook and other digital media, is becoming increasingly important in reaching a wider audience. Important initiatives include:

- » the annual International Tourism Fair
- » the media, such as TV, radio, newspapers (<http://www.nrk.no/nett-tv/index/246099/>)
- » publications, such as brochures and playing cards
- » digital media, such as websites, Facebook, Twitter, etc.
- » events: seminars, conferences, workshops, annual meetings and lectures

Cultural Heritage Awareness Playing Cards: Iraq/Afghanistan.

Production and Copyright: Center for Environmental Management of Military Land (CEMML), Colorado State University Fort Colling of Cultural Resource Management Program at Fort Drum, NY, USA



Measurement of Performance/Results of Activities

Whether the results of BSN and the organisation's activities are measurable or not is a difficult question to answer. We may notice the trends from year to year but we have not added performance indicators to our work and are therefore unable to give any exact figures.

We can see that there have been several reports in the media in areas of BSN and the organisation's focus. The demand for more information from the media

has increased, but this also results from the number of disasters and wars taking place. The number of visitors and interest in information about looting and illicit trafficking in cultural artefacts has obviously increased at the tourism trade fair. The number of participants who want to offer their help has grown considerably, in places such as Cologne, Haiti, New Zealand, and China, through anything from Facebook to ANCBS. Many countries have also prepared contingency plans to protect their cultural heritage in archives, libraries and museums.



The bombed and destroyed bridge at Mostar, Bosnia and Herzegovina, 1993.
Photo: Jon Roar Strandenes

Blue Shield and its member organisations cannot achieve results through their own efforts alone, but are dependent on cooperation in order to exert pressure on governments to implement conventions and to follow up with practical work. BSN has, in part, had some success in this work, yet we are not satisfied with the results and will continue to be a fearless watchdog.

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www.icom-norway.org.

<http://icom.museum>

www.blueshield.no

www.ancbs.org

Pictures from the inspection in Egypt in February 2011 can be found at the address www.blueshield.at



Promotion and education. Some cases of practices around the world

Aleksandra Chabiera

Senior specialist of heritage management,
National Heritage Board of Poland

When planning the project we knew that apart from the experts dealing with the difficult issues, such as cooperation in the fight against regular smugglers, we would also need to cover the topic of raising general awareness. A large portion of the crimes committed against heritage is caused by ignorance or a misunderstanding of the idea of heritage protection, i.e. in order to truly protect cultural heritage we need to gain the most important ally – the citizens.

This is a never-ending job which starts in kindergarten, where teachers and parents teach children about their cultural roots, through school where youngsters should learn about the value of heritage, and ends with adults, whom we should provide with and remind about the rules helping to protect what they have already come to appreciate and respect.

That is why central agencies, scientific organisations and foundations all over the world work, often together, to raise public awareness in the field of heritage protection and to prevent crimes committed against it.

In this paper we would like to present the activities of various types of organisations taking place in several countries around the world. Every one of these works in its particular field and has different competences and targets, but all strive to continuously protect cultural heritage from disappearing through crimes and simple indifference.

Tunisia

Tunisia is a country known for its rich heritage sites, of which many were and are still being plundered. Researchers assess

that a great number of sites have completely vanished due to constant looting. General awareness and political will have been pointed out by scholars as the two factors that could improve the situation. Another important aspect should also be pointed out – that an increase in family incomes could also help, as most of the looters are local people, even if the looting is commissioned by professional thieves and smugglers. Preserving heritage is crucial to the entire country, for which tourism is one of the most important branches of the economy.

Two institutions have competences in the field of heritage under the auspices of the Ministry of Culture and Heritage Conservation. These are the Institute of National Heritage, which acts as an administrative body responsible for the inventory of monuments and historical objects, for research, regional site inspectors, heritage

protection, and for promotional and educational activities. The Agency for Heritage Development and Cultural Promotion is a non-administrative institution whose mission is to implement government policy in the fields of culture, particularly those connected with the presentation and interpretation of archaeological and historical sites. These two agencies cooperate in certain campaigns, such as Heritage Month (in 2010 its motto was "Protection of Heritage. Everybody's responsibility"). These institutions have also cooperated in the initiative of the Faculty of Human and Social Sciences in Tunis entitled The awareness campaign against the illicit traffic of cultural property, which was a part of the 2011 Heritage Month edition. The program included an experts' roundtable: Heritage and current regulations, an exhibition of archaeological copies and an awareness stand presenting the law, regulations and





To truly protect cultural heritage we need to gain the most important ally – the citizens”

conventions. The campaign was open to everybody, but its main target, young adults, was chosen due to its location – a university campus.

Argentina

In 2006 the Ministry of Culture of Argentina, which was responsible for heritage, museums and licensing exports, started a public campaign against illicit traffic with posters, banners, spots displayed on TV and in airports, and a website with a newsletter. In 2007-2008 the posters were displayed at 14 airports and 50 border crossings from November to March, a period when tourist traffic is high. Currently, 16 airports and over 100 border crossings are involved. It is estimated that 13 million people saw the campaign in 2008. The visual concept is simple and modern, therefore catchy. The posters are based on a simple juxtaposition of two similar items, one that can be used, worn or played with legally (“to play” “YES”), and the other an antique which is used incorrectly and illegally (“to play”, “NO”). (FIG.1, FIG.2)

Details of the campaign, along with the posters, TV spot and information about regulations as well as lost and recovered objects can be found at <http://www.cultura.gov.ar/traficoilicito>.

Australian Commonwealth

The Department of Sustainability, Environment, Water, Population and Communities is an Australian government agency responsible for heritage issues. The Department is a member of EPHC, i.e. the Environment Protection and Heritage Council, and NEPC, i.e. The National Environment Protection Council. The EPHC’s and NEPC’s participating jurisdictions are the Commonwealth of Australia, State and Territory Governments, New Zealand Government and Papua New Guinea Government – these countries cooperate in the field of heritage protection policies and activities.

DSEWPaC provides teaching resources for primary and secondary school children, an informative website for the general

public and coordinates Australian Heritage Week. It also maintains the National Cultural Heritage Control List, which contains a list of objects that may not be exported and objects that may be exported if granted a permit. DSEWPaC also supports non-governmental activities, such as the Australasian Institute for Maritime Archaeology (AIMA), whose initiative, the web-based Australian National Shipwreck Database, is hosted by the DSEWPaC. AIMA also holds a yearly shipwreck photography competition, open to everyone, and awards the best photographs of shipwrecks or of any other underwater cultural heritage. More information about the protection of tangible and intangible, movable and immovable heritage and governmental activities of the Australian Commonwealth can be found at <http://www.environment.gov.au/heritage>.

Education about the protection of heritage and the fight against illicit traffic is led mostly through campaigns stimulating the activities of certain groups of the general public. Amongst the defined targets is the dissemination of knowledge concerning regulations, provision of various educational programs and spreading the idea of heritage protection (FIG. 3). Water cultural heritage is obviously rich in Australia, hence, specially dedicated programs, strategies and activities linked with water heritage protection are prepared. Australian protected areas ensure that un-

Fig. 1 Argentinian campaign poster displayed on the website
Source: <http://www.cultura.gov.ar/traficoilicito>

Fig. 2 Argentinian campaign poster displayed on the website
Source: <http://www.cultura.gov.ar/traficoilicito>



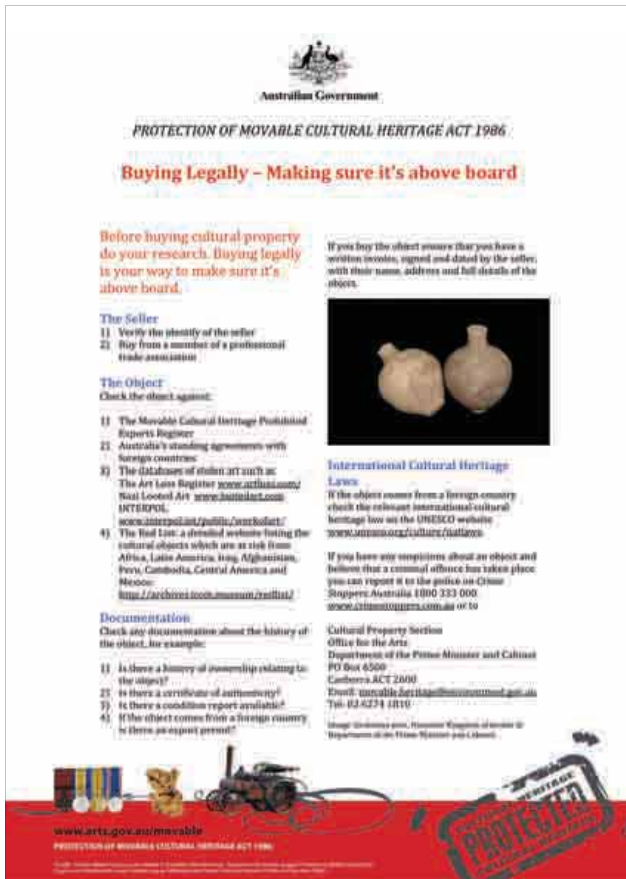


Fig. 3 Buying Legally – Making Sure It’s Above Board. Educational brochure
 Courtesy of the Cultural Property and Gifts Section Office for the Arts
 Department of the Prime Minister and Cabinet

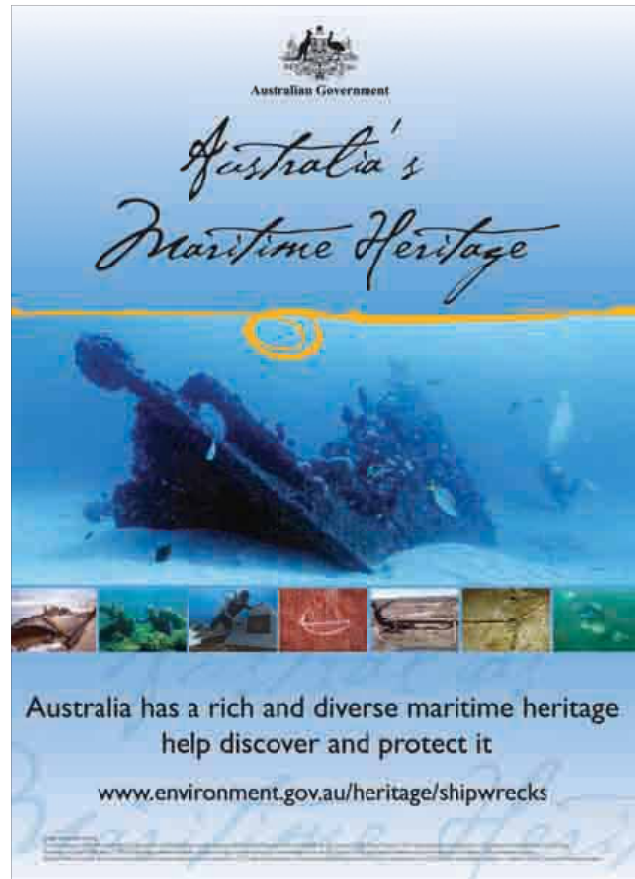


Fig. 4 Poster promoting the maritime heritage protection program
 Courtesy of the Cultural Property and Gifts Section Office for the Arts
 Department of the Prime Minister and Cabinet

derwater sites and historic shipwrecks are safeguarded and actively managed. There is an obligation of obtaining permits to enter or even transit a protected area to carry out activities such as diving, fishing or commemorative ceremonies. The Historic Shipwrecks Program is a long-term activity consisting in the conservation, protection and development of a comprehensive register and in supporting public awareness. The program develops such tools as the Internet-based shipwreck database (search by content, position or distance) (FIG. 4). Another program, New South Wales Wreck Spotters, allows volunteers to work alongside marine archaeologists in identifying, mapping and promoting shipwreck sites in their local communities. The Wrecks Alive! Shipwreck Survey Project encourages divers to actively preserve

shipwrecks, record the visual appearance of sites and raise the level of knowledge in recording techniques.

USA

I. The Cultural Heritage Center, U.S. Department of State

The Cultural Heritage Center supports the foreign affairs functions of the U.S. Department of State related to the protection and preservation of cultural heritage. It also administers the U.S. Ambassadors Fund for Cultural Preservation, the Iraq Cultural Heritage Initiative and U.S. responsibilities connected with the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The whole range of the Cultural Heritage Center’s activities, along with an Image Da-

tabase and its structure, can be found at <http://exchanges.state.gov/heritage>.

International Cultural Property Protection:

As the U.S. Department of State receives foreign government requests for import restrictions (due to a high number of historical objects being smuggled into U.S. territory), it may decide to enter into an agreement with the requesting country. The country may impose import restrictions and promote international collaboration in developing the sustainable protection of cultural heritage. The Image Database provides illustrations of categories of objects restricted from import into the U.S. which are classified by country. As a knowledge tool for the general public and for Customs officers it constitutes an



interesting solution, as the database shows images of the restricted objects, not only a list of them, which would be difficult to understand for non-specialists (FIG. 5).

2. International Foundation for Art Research

This is an independent scholarly organisation that connects the general public and the world of art on integrity and other important art issues.

IFAR manages an art-law section of its publications and the Law Advisory Council. IFAR cooperates with government agencies, such as U.S. Customs, the FBI, the Drug Enforcement Agency and local police departments. More about IFAR's mission and work can be found at <http://www.ifar.org/>.

One of IFAR's most important initiatives has been the Art Theft Database – the first international archive of stolen art which is available to the public. This has led to cooperation in the creation of the Art Loss Register. Other IFAR activities include the Art Authentication Research Service (research results are published in the IFAR Journal), the IFAR Journal – with “Stolen Art Alert (TM)” published with the help of the Art Loss Register (ALR), the Interpol and the Art Theft Database as well as events, lectures, panels, meetings, tours and informal “IFAR Evenings”.

- » Meetings, IFAR evenings and conferences deal with various issues concerning crimes against art. Exemplary themes may reveal the range of presented topics:

Fig. 5 Image Database on the U.S. Department of State website
Source: <http://eca.state.gov/icpp/honduras/sect.htm>



Fig. 6 IFAR website
Source: <http://www.ifar.org>



- » Twenty Years and Counting: The Isabella Stewart Gardner Museum Theft
- » Cambodia – Angkor and Beyond: The Ravages of Time, War and Looting
- » What Collectors and Dealers Need to Know About
- » Holocaust Era Looted Art – The Legal Issues
- » Early Netherlandish Paintings or Twentieth-Century Fakes? A Tale of Deception
- » The FBI's Role in Art Fraud and Theft.
- » (FIG. 6)

3. SAFE – Saving Antiquities for Everyone

SAFE is a non-profit organisation created to spread and promote the idea of preserving cultural heritage. The most important aspect of its activities is providing education about the damage that results from looting and smuggling antiquities. SAFE members assume that public awareness is crucial in the protection of national cultural heritage. SAFE creates promotional and educational campaigns in cooperation with scholars and media experts to encourage ethical behaviour and respect for the laws related to protecting heritage as a living witness to history. Most of the campaign goals are to show that looters, smugglers and illicit traffic irreversibly rob society of its most precious property. More about the SAFE organisation and its activities can be found at <http://www.savingantiquities.org/>.

SAFE organises book signings and readings for popular scientific publications and panel discussions with journalists, lawyers, archaeologists and museum professionals. SAFE also exhibits during conferences for scholars and students to improve their knowledge concerning threats to cultural heritage. One of the most important tools used by SAFE is that of social media outreach, e.g. on Twitter, Facebook and YouTube. Using these modern forms of new media to reach young people is crucial as these organisations should be present with their message where these people are.

The public awareness materials created and distributed by SAFE (podcasts, brochures, posters, postcards, books, t-shirts, mugs, stamps or bags) use bold

graphics and simple language. A clear and striking message is equal to a commercial advertisement and attracts just as much attention. Some of the materials, such as postcards, are created and designed by students for SAFE competitions, which is also an interesting way of raising general public awareness.

(FIG. 7)

4. The Lawyers' Committee for Cultural Heritage Preservation

The aim of presenting this organisation is to prove that the commitment of professional milieus is not only possible, but also very important for the protection of heritage. The Lawyers' Committee educates society about cultural heritage issues and public policy, but first of all it aims to raise the profile of cultural heritage law in law schools. Its activities are advocacy (judicial as well as legislative), educating law students and professionals (e.g. the Moot Court Competition or a guide to courses devoted to heritage-related laws), and publication of *The Yearbook of Cultural Property Law* and *The Journal of Cultural Heritage Law*.

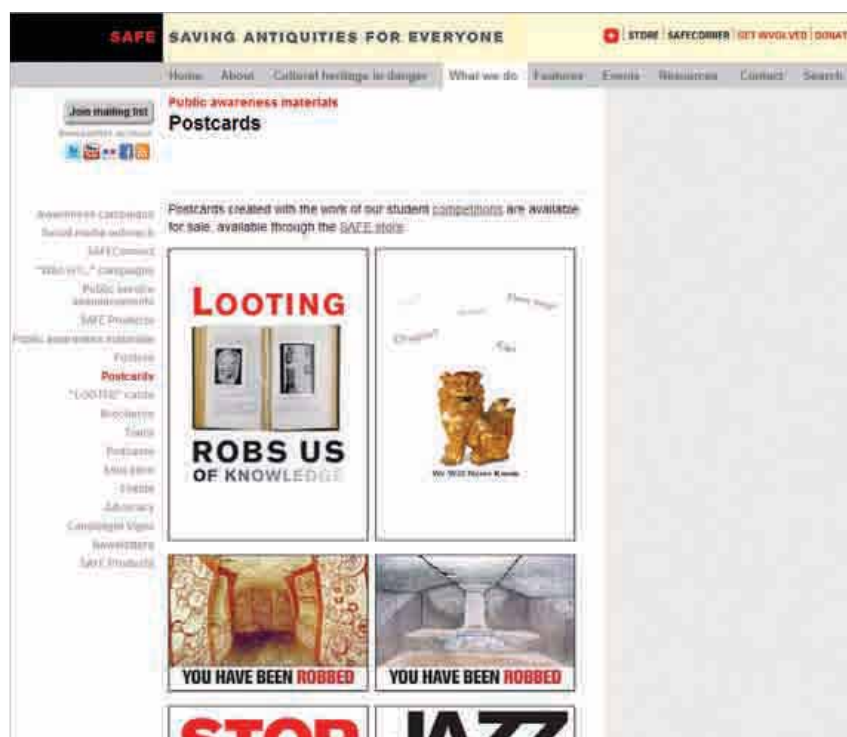
The Lawyers' Committee organises expert conferences on legal topics related to heritage, such as Human Rights and Cultural Heritage, Culture and Conflict, Legal and Ethical Problems in Art Restitution, or the Immunity of Foreign Cultural Property From Suit in the USA. More detailed information about the competitions, laws, regulations and available knowledge is provided by Committee members at <http://www.culturalheritagelaw.org/>.

All of these activities upgrade lawyers' competences with regard to their professional work in the legal protection of heritage and in the fight against crimes destroying historical cultural property.

We hope that this short presentation of promotional and educational campaigns and activities may be inspiring for professionals working in the field of education related to preserving and protecting heritage from destruction by criminal activity. As was presented above, both awareness and knowledge need to be constantly raised and improved amongst the general public as well as among experts.

Fig. 7 Awareness material presented on the SAFE website

Source: <http://www.savingantiquities.org/postcards.php>





The Wreck of the Vrouw Maria – problems and good practice in the protection of underwater sites

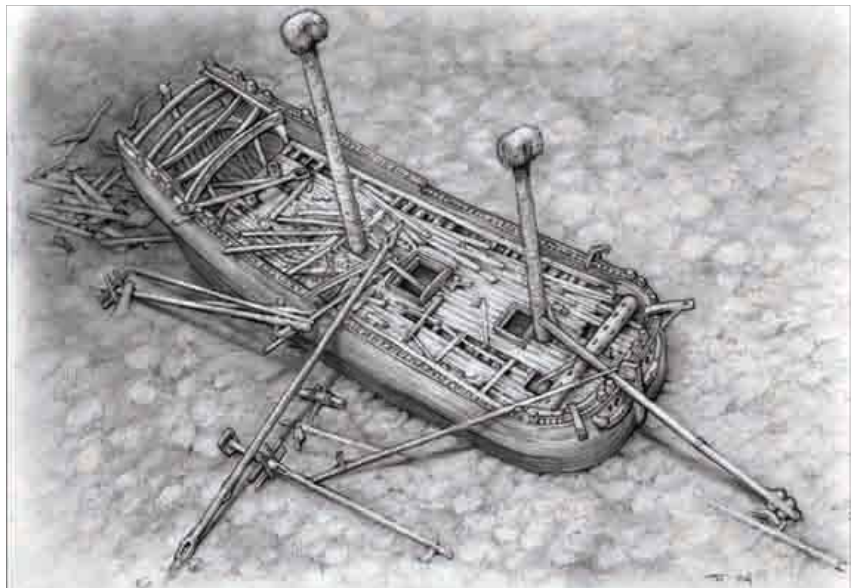
Riikka Alvik i Maija Matikka

National Board of Antiquities

In the brackish waters of the Baltic Sea lie thousands of shipwrecks from different eras. Some of them are very well preserved due to the Baltic's unique conditions, such as the low salinity of the seawater, low water temperature and lack of wood-eating molluscs, such as shipworm. Approximately 1600 different kinds of sites have been discovered in the waters of Finland and approximately 90% of them are shipwrecks of different types and sizes from medieval times to the modern age. Ancient monuments and relics are protected by the Antiquities Act of 1963, according to which a shipwreck, wreckage or any part of one found in the sea or in a waterway, which can be assumed to have sunk at least one hundred years ago, is protected. If it is evident from the external circumstances that the wreck has been abandoned by the owner then it belongs to the State. Other types of ancient monuments, such as dwelling-sites, forts and bridges, are protected as antiquities pertaining to the past settlement and history of Finland. The National Board of Antiquities is responsible for the research, management and protection of all kinds of ancient monuments and objects. It is also the authority permitting investigations of archaeological sites on land and under water.

The story and discovery of the Vrouw Maria

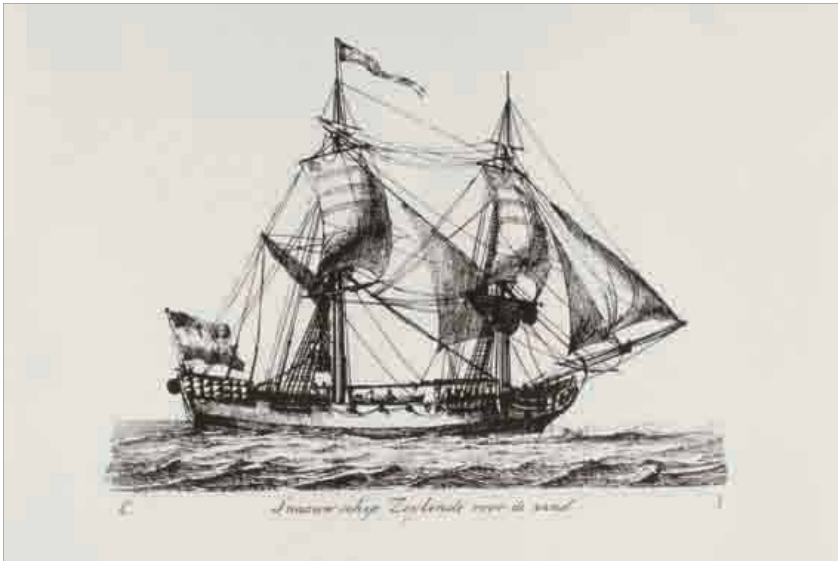
The Vrouw Maria was a two-masted, snow rigged ship on her way from Amsterdam to St. Petersburg. She started her last voyage in early September 1771 and passed the Danish Customs Station in Sound on 23 September. According to the Sound Customs Register she carried



Drawing of the wreck based on videotapes, photographs and drawings taken and done by the divers and researchers.

Drawing by: Tiina Miettinen, The National Board of Antiquities

“
The court proceedings concerning the case of the Vrouw Maria have been exceptional in Finland. This is the first time that a private party has aimed at obtaining ownership of an underwater ancient monument”



Location of Vrouw Maria in the Archipelago of Finland. Vesa Hautsalo, the National Board of Antiquities

in her cargo, among other goods: zinc, dyestuff, sugar, coffee beans, cloth, mercury, cheese and butter, along with some valuable pieces of art and silver. Some of the art had been bought for the Empress Catherine the Great. The ship got lost around the Gulf of Finland in autumn 1771 and hit a rock near the coast of Finland approximately 90 kilometres off from the city of Turku. The Vrouw Maria was stuck on

a rock and the crew had been trying to save her and her cargo for several days by spending the nights on a tiny island nearby. The silver and some pieces of art were salvaged, but most of the cargo was lost as the coffee beans filled the pumps and the cargo hold was soon filled with water. On the fifth day after the accident the ship sunk into the sea. After the loss, attempts were made to find her and to salvage the

lost goods, especially since the Russian nobility was very anxious to retrieve the lost pieces of art. These attempts failed and the ship was forgotten for over 200 years (Ahlström 2006: 5-12; Gelderblom 2003: 95-115; Leino 2002: 13-17; Leino 2003: 4; Malinen 2003: 13).

The fate of the Vrouw Maria had been known in Finland since the 1970s, when Dr. Christian Ahlström went through the archives and found documents about the shipwreck. Many sports divers attempted to find the wreck in the following years. What added to the general interest in the wreck was the cargo she had had onboard. Already in the 1970s the paintings that had been bought for the Empress Catherine the Great raised interest both in professional researchers and in divers who were interested in shipwrecks and maritime archaeology.

In 1998 the wreck was searched for, for the first time, with the help of a side scan sonar, but it was not found at this time. An association called "Pro Vrouw Maria" succeeded in locating the wreck the following year (1999), with Mr. Rauno Koivusaari in charge of the practical aspect of the search. The association had been founded to promote and support the locating and investigation of the wreck of the Vrouw Maria. When the wreck was found, the National Board of Antiquities awarded the



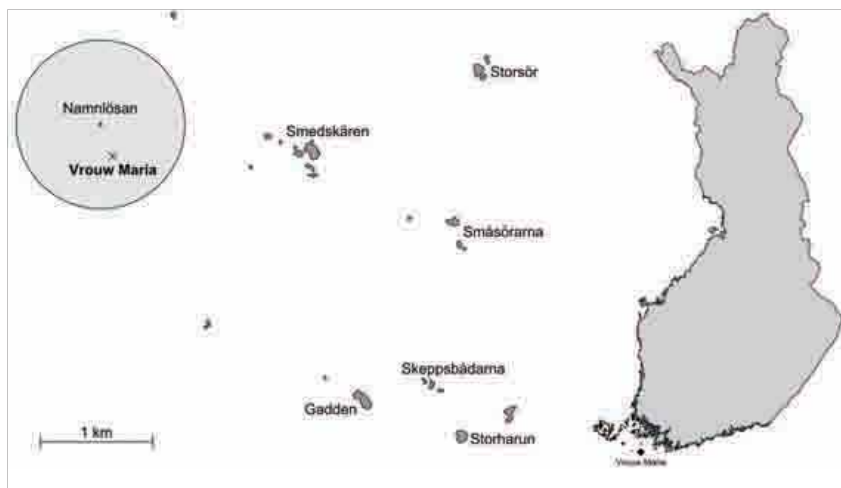
finders with a medal. The Antiquities Act does not oblige the Board to pay a reward for finding ancient monuments on land or underwater and rewarding finders is not a common practice in Finland.

The Vrouw Maria court proceedings in Finland

Most of the members of the Pro Vrouw Maria Association had been actively cooperating with the National Board of Antiquities and had told the Board beforehand that they were looking for the wreck solely because of their interest in maritime history. However, when the wreck was found this state of affairs turned out to be somewhat different and the regulations of the Antiquities Act were put to the test.

Two members of the Pro Vrouw Maria Association summoned the State of Finland and the National Board of Antiquities to court. The complainants demanded a reward for sea-salvaging the six items the National Board of Antiquities had permitted them to raise from the wreck soon after it was found. The items had been raised in order to help researchers confirm identification and dating of the wreck. The complainants also demanded the right to sea-salvage all of the items in and near the wreck of the Vrouw Maria and the right to a sea-salvage reward for all of these items based on the Maritime Act. Additionally, the complainants demanded ownership of the wreck and thus the right to salvage the wreck itself or the privilege to decide to whom the salvage operation would be delegated. The complainants understood that by being given a licence to raise six items for the possible dating of the wreck, the National Board of Antiquities had concluded a sea-salvage agreement with the finders. Moreover, the complainants understood that as finders of the wreck they had the right to sea-salvage it because they had been the first ones on the spot and, in their opinion, were equipped to start the salvage operation and had become owners of the wreck by appropriation of the object.

The Turku District Court handled the case of the Vrouw Maria with one judge on the panel in the autumn of 2002 and gave a provisional decision stating that the Antiquities Act and the Maritime Act were not mutually exclusive but complemen-



Location of Vrouw Maria in the Archipelago of Finland.
Vesa Hautsalo, the National Board of Antiquities

tary, and that both acts could be applied to a wreck that was over one hundred years old and protected by the Antiquities Act. The provisional decision led to an extension of the proceedings. The actual hearing of the case, which was conducted with a panel of three judges in the spring of 2004, led to a dismissal of the complainants' arguments – despite the provisional decision. The court saw that as a special act, the regulations of the Antiquities Act eliminated the possibility of applying the sea-salvage and reward regulations of the Maritime Act to wrecks and objects discovered in wrecks or objects evidently originating from such contexts that were protected by the Antiquities Act. The court also decided that the wreck of the Vrouw Maria was not endangered and that neither the wreck nor the objects originating from it were causing any danger to navigation or the environment. For this reason there was no need to salvage the wreck, i.e. the reasons for raising the wreck or objects originating from it were mainly archaeological or historical. The regulations of the Antiquities Act can determine a need of this kind and the National Board of Antiquities has the exclusive discretionary power and authority to decide what is to be done with a wreck and the objects within it.

The complainants appealed to the Turku Court of Appeal, which came to a decision in March 2005 – and the complainants' appeal was dismissed. The court

concluded that both the Antiquities Act and the Maritime Act have to be applied to the case of the Vrouw Maria. However, the regulations of the Antiquities Act prevent the finders of the wreck from being able to have control over the wreck and, therefore, to possess it. One must have factual possession or control over an object in order to become its owner by appropriation and, therefore, the complainants could not have ownership of the wreck – the owner of the wreck of the Vrouw Maria was, in fact, the State of Finland. The Court of Appeal also stated that there was no sea-salvage agreement between the National Board of Antiquities and the finders of the wreck when it came to either the wreck with its cargo or to the six items the Board had permitted the finders to raise from the wreck soon after it was found. According to the Turku Court of Appeal, the complainants did not have the right to start any salvage operations against the will of the owner of the wreck, i.e. the State of Finland, since the wreck was not in actual danger and there was no urgent need to salvage it or its cargo. The State of Finland has the right to prohibit anybody from starting a salvage operation of a wreck or the objects originating from it.

The court proceedings concerning the case of the Vrouw Maria have been exceptional in Finland. This is the first time that a private party has aimed at obtaining ownership of an underwater ancient

monument. Before this no one had wanted to openly deny Finland's authority and responsibility regarding ancient underwater monuments. Both the complainants and the National Board of Antiquities asked for permission to take the case to the Supreme Court. While the complainants no longer claimed ownership of the wreck, they still claimed the salvage right and reward. The National Board of Antiquities argued that the Turku Court of Appeal was wrong when stating that the Maritime Act could be applied to an ancient monument. Surprisingly perhaps, in the light of the significance of the case, in November 2005 the Supreme Court refused to leave to appeal. The decision of the Turku Court of Appeal therefore stands.

Claim to the European Court of Human Rights

In 2006 two members of the Pro Vrouw Maria Association made a claim to the European Court of Human Rights that the State of Finland had violated their right to ownership of the Vrouw Maria. They also demanded a salvage reward or monetary compensation for the lost property. The European Court of Human Rights made a decision in March 2009 and rejected the case. According to the ruling, Finland had not violated the divers' rights by forbidding them from raising the sunken shipwreck or from taking objects found in it, and the wreck was not in immediate danger.

Legislation concerning shipwreck finds

During the 21st century some amendments and changes have been made in

the legislation concerning the safeguarding of shipwrecks and sea salvaging. In the 2002 Antiquities Act, a subsection was added in the section concerning ship finds. Ship findings, i.e. a shipwreck or any part of it, that can be interpreted as rejected by the owner, belong to the State of Finland (<http://www.finlex.fi/fi/laki/alkup/2002/20020941>). In 2005 an addition was provided stating that the Border Guard of Finland is one of the authorities responsible for safeguarding archaeological and historical shipwreck sites (<http://www.finlex.fi/fi/laki/smur/1963/19630295>).

In 2007 Finland made a reservation to the International Convention on Salvage not to apply the provisions of the Convention if the property involved is maritime cultural property of prehistoric, archaeological or historic interest and is situated on the seabed (<http://www.finlex.fi/fi/sopimukset/sopimussarja/2007/20070040.pdf>).

The wreck of the Vrouw Maria today

The National Board of Antiquities has been researching, monitoring, safeguarding and visualising the Vrouw Maria since 2000, when the first field work session at the site began. The Vrouw Maria is located in an area belonging to the Finnish Archipelago National Park managed by Metsähallitus, which is a governmental body. The site is also surrounded by a special protection area where diving and anchoring are prohibited. This area is marked in marine charts. The Coast Guard is responsible for surveillance of the area and the National Board of Antiquities monitors the wreck regularly

through visual checks done by divers, during which the wreck is photographed and videotaped.

The Vrouw Maria constituted one of the case studies in the so-called MoSS-project, which was an international project concerning the monitoring, visualising and safeguarding of well-preserved shipwreck sites in Northern Europe (www.mossproject.com). After the MoSS-project for several years the site was monitored for possible changes or illegal activity by having the most vulnerable spots photographed or videoshot. The environmental conditions at the site are quite stable and the changes taking place are slow.

In 2009 more intensive research at the site started again when the National Board of Antiquities started planning a project called "Vrouw Maria Underwater". The project has three research periods, with the second one taking place now. This summer the National Board of Antiquities proceeded with two weeks of fieldwork, including recording the ship's hull and rigging and taking samples from the cargo hold. During the last year of the project an exhibition will be prepared by the Maritime Museum of Finland in cooperation with the Netherlands and perhaps also some other foreign museums. The exhibition will present the story of two shipwrecks, i.e. of the Vrouw Maria and the St. Michael, and also a seminar concerning the future of the Vrouw Maria. The project is funded by the Finnish Ministry of Culture and Education. At the moment it has been decided that the wreck should be preserved in situ.

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Conclusions

The project on legal and illicit trade in objects of cultural heritage, carried out by heritage agencies in Poland and Norway, has lasted two years and has aimed at creating a solid platform for an ongoing debate of all the stakeholders involved in preventing and fighting this type of crime.

The main part of the project consisted of three expert workshops devoted to different aspects of fighting illicit trade in cultural objects: the legal framework for trade in cultural heritage objects (Oslo, March 2010), archaeology and underwater heritage (Gdansk, September 2010), and education and raising awareness in crime prevention (Oslo, January 2011). The Oslo workshop included an informative exhibition stand at the Travel Fair at Lillestrøm as well as the publication and distribution of a brochure entitled "Do you want anything illegal in your home? Think before you buy art and artifacts". A seminar was also held for relevant professionals in heritage management, the travel business, police and customs.

This project was concluded with a conference in Warsaw in 2011. Norway and five Baltic Sea countries were represented – with about one hundred participants in total. The project, which included an analysis of the systems in place in Poland and Norway, demon-

strated significant differences in the approach to combating the illicit trade of objects of cultural heritage, both in legal and practical terms.

Throughout implementation of the project, participating experts presented varying opinions and different suggestions to solutions (methodological, legal, commercial and social). It seems that although the international and national legislation in force is sufficient and appropriate in most cases, there is still room for continuous improvement. The main challenges, however, often lie in the proper execution and implementation of legislation by customs, police, the border guard, museum professionals as well as in raising awareness of the topic regarding illicit trade amongst all groups of society.

The project has also proven that different types of crime against objects of cultural heritage require different approaches, as two basic groups can be distinguished – those who are aware and those who are unaware of the fact that they are breaking the law. We can conclude that an increased emphasis on public awareness-raising activities is especially important. These should not only be targeted towards the general public, but also towards all decision-makers – including politicians, national and local authorities, museum profes-

sionals as well as prosecutors and judges.

In spite of the challenges we face, professionals in Poland and Norway believe that we have an obligation to protect the traces of our past that have built up our sense of identity and belonging. As our heritage is protected by law for the benefit of society as a whole, we also believe that there should be a low level prosecution threshold where crime against heritage is concerned.

The project is not over. The debate is still going on and we have created the tools to keep it running. This publication will help in promoting our conclusions and the www.stop-heritage-crime.org website, which will remain online. We encourage everyone to help us to continue and develop the website to include information on case studies and other issues important for the process of more effective heritage crime prevention. The current project is based on Polish-Norwegian cooperation, but hopefully it will expand to include information on the legal framework and experience of other countries as well. We have experienced the advantage of personal contacts across borders and would welcome others into this network. We are fighting a tough battle, but this project has proven that strong international cooperation and dedicated stakeholders can truly make a difference.

Paulina Florjanowicz

Narodowy Instytut Dziedzictwa

Anne Aasheim

Norsk Kulturråd

Jørn Holme

Riksantikvaren

Jerzy Litwin

Centralne Muzeum Morskie

