

About Some Aspects of Illicit Trade in Cultural Goods

Dzotsenidze Tsitsino – PhD in Economics, Invited Specialist, Department of Economics, Akaki Tsereteli State University, Kutaisi, Georgia

Abstract

Introduction and aim: Illicit trade in cultural goods is defined as the illicit import, export and transfer of ownership of cultural property, i.e. items being of importance for archaeology, prehistory, history, literature, art or science and is characterised as ranging from theft from cultural heritage institutions or private collections, through looting of archaeological sites to the displacement of artifacts due to war.

Illicit in cultural goods fosters terrorism, money laundering, tax evasion, and organised crime. Cultural goods have a significant economic value in the market and the trafficking of cultural goods and antiquities is estimated to be worth between US\$50 million and US\$150 million a year.

Research methodology: The analysis of qualitative and quantitative data is based on official reports the EPRS study on illicit trade of cultural goods; – Eurostat's updated report on money laundering; Proposal for a regulation of the European parliament and of the council on the import of cultural goods

Results and implications: The European Union does not have common rules on the import of cultural goods. Two EU acts govern only selected areas: Regulation (EU) 116/2009 lays down rules on the export of cultural goods, and Directive 2014/60/EU governs the return of cultural objects taken unlawfully from another EU country. Furthermore, most Member States impose restrictions on imports of culture goods (e.g. requiring declarations or controls) in line with Articles 34 and 35 of Treaty on the Functioning of the European Union (TFEU).

Conclusion: On 13 July 2017 the European Commission tabled a proposal for a regulation on the import of cultural goods, which will set out conditions and procedure for the entry of cultural goods into the customs territory of the EU.⁴ The Commission is also preparing a study on illicit trade in cultural goods in the EU and the new technologies available to combat it.

EU countries are the main trade partners for Georgia. Changing import-export rules on cultural goods will affect the trade balance of Georgia. That's why it's right to harmonize with the normative documents in the EU. Special attention should be paid to quantitative and qualitative indicators of imported and exported cultural goods in Georgia.

Keywords: Innovation, Trade Partners, Import, Export, Cultural Goods

1 Introduction

Illicit trade in cultural goods is defined as the illicit import, export and transfer of ownership of cultural property, i.e. items being of importance for archaeology, prehistory, history, literature, art or science' and is characterised as ranging from theft from cultural heritage institutions or private collections, through looting of archaeological sites to the displacement of artefacts due to war.

Illicit in cultural goods fosters terrorism, money laundering, tax evasion, and organised crime. Cultural goods have a significant economic value in the market and the trafficking of cultural goods and antiquities is estimated to be worth between US\$50 million and US\$150 million a year.

1.1 Background

Cultural goods and cultural heritage have irreplaceable cultural, social, environmental and economic value and are essential for people's identity and memory, as well as for creating a sense of belonging to a community.

Cultural heritage as a non-renewable resource that is unique, non-replaceable or noninterchangeable is currently confronted with serious challenges relating to cultural, environmental, social, economic and technological transformations that are affecting all aspects of contemporary life.

Cultural heritage plays a special role in achieving the Europe 2020 strategy goals for smart, sustainable and inclusive growth, since its social and economic impact contributes to environmental sustainability. It cuts across several public policies beyond the strictly cultural domain, such as regional development, social cohesion, agriculture, maritime affairs, environment, tourism, education, the digital agenda, research and innovation. These policies have a direct or indirect impact on cultural heritage and cultural heritage offers strong potential for the achievement of their objectives.

The 2015 “Cultural Heritage Counts for Europe” report shows that an estimated 300 000 people work directly in the EU’s cultural sector and as many as 7.8 million jobs are created indirectly by this sector. Additionally, studies show that investing €1 in culture gives a return of more than €20.

Horizon 2020, the EU’s framework programme for research and innovation, reinforces the EU’s position in the field of preserving, restoring and promoting cultural heritage, supporting cooperation among researchers across a broad range of themes. Through Horizon 2020, the EU supports the application of cutting-edge science to heritage protection; the development of more inclusive interpretations of the past; and new methods of dissemination and knowledge sharing.

The conservation, promotion and management of cultural heritage is currently supported under the EU’s Structural and Investment Funds (ESIF). Between 2007 and 2013, the European Regional Development Fund allocated €3.2 billion to protect and preserve cultural heritage, €2.2 billion to develop cultural infrastructure and €553 million to boost cultural services, which also benefited cultural heritage. For the 2014 to 2020 period, ESIF investments in heritage will remain eligible, under certain conditions, through direct funding, but also through investment in urban regeneration, sustainable development and support for small and medium-sized enterprises.

Extra-EU trade in cultural goods, EU-28, 2008 and 2015, in € million

table 1

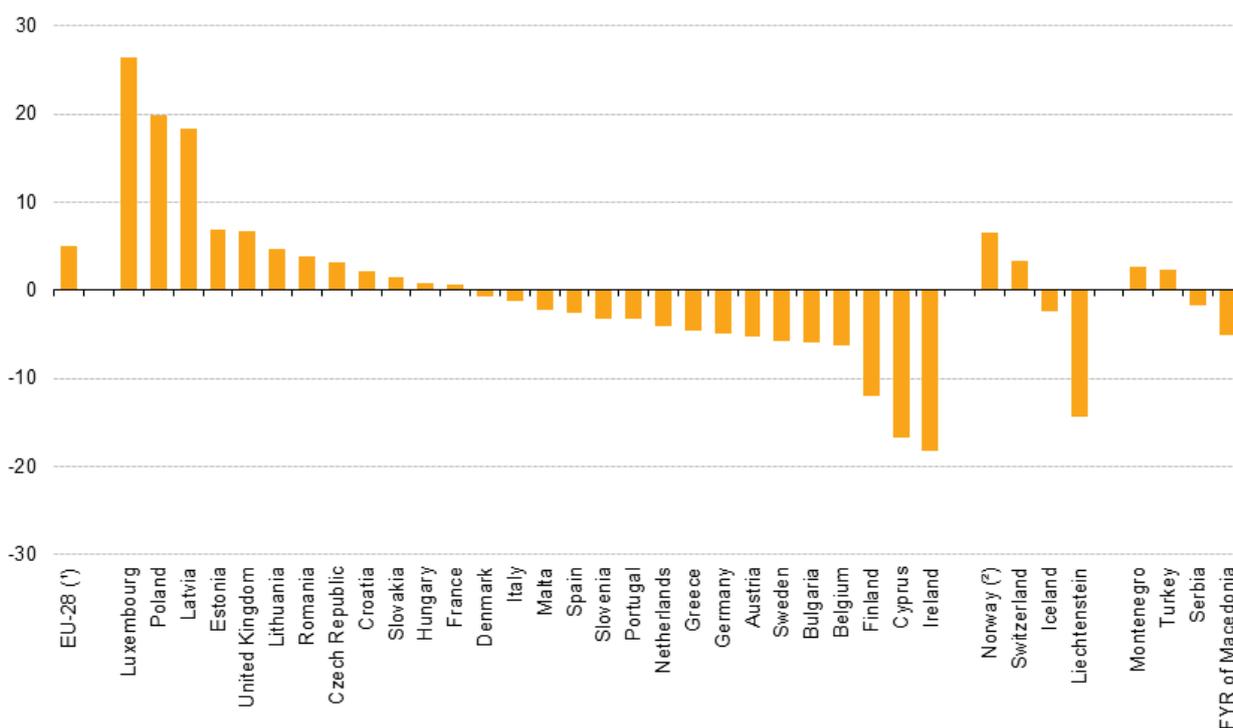
2008		
Exports	Imports	Balance
10535	12603	-2068
2015		
Exports	Imports	Balance
14926	12140	2786

Source: International trade in cultural goods, Eurostat, January 2017.

“Cultural goods” are the products of artistic creativity that convey artistic, symbolic and aesthetic values; examples are antiques, works of art, books, newspapers, photos, films and music. The category includes CDs, DVDs and video games and consoles, as media enabling access to cultural content. It also includes musical instruments, which are not cultural goods in themselves but represent means of artistic expression. “Cultural goods” exclude products of large scale manufacturing even if they facilitate access to cultural content (e.g. TV sets or CD players).

Annual average growth rate of exports of cultural goods, 2008–15 (%)

table 2



Source : Eurostat, 09.09. 2017

Cultural goods do not penetrate markets and are not consumed by households in the same way as other more common products of mass consumption. Cultural group is also very heterogeneous as concerns the volumes or values of its traded products. There is much lower demand for embroidery, maps, and architectural plans and drawings, for example, than for CDs and DVDs. The differences in consumption characteristics of cultural goods, the structure of the industrial production and its specialisation in different Member States have an impact on patterns of imports and exports of cultural goods.

In EU international trade statistics, the term 'goods' means all movable property, i.e. products having a physical and tangible dimension. International trade in licenses and copyrights is therefore not included.

The ESS net-Culture final report (2012) creates a framework for culture statistics on the basis of cultural 'activities', which are intersections between ten cultural domains and six economic functions. Trade is an important aspect of the dissemination of culture and one of the six economic functions (together with creation, production/publishing, preservation, education and management/regulation).

Eurostat analysed ten cultural domains from a 'product perspective' in order to establish a list of internationally traded cultural goods. The analysis focused firstly on 'artistic creation', so it included products that convey and encompass symbolic, aesthetic, artistic and spiritual values (e.g. works of art or crafts). It also includes some products that do not meet the 'artistic creation' criterion, but enable artistic expression or access to cultural content (e.g. musical instruments, CDs and DVDs). Equipment in the wider sense (e.g. TV sets, CD players, cameras) is excluded.

Cultural goods according to cultural domains

table 3

CULTURAL DOMAIN	CULTURAL GOODS
Heritage	<ul style="list-style-type: none"> •Antiques, collections and collectors' pieces, postage or revenue stamps
Books and press	<ul style="list-style-type: none"> •Books •Newspapers, journals and periodicals •Maps and hydrographical and similar charts
Visual arts	<ul style="list-style-type: none"> •Works of art (paintings, engravings, sculpture, designs etc.) •Photographic plates and films developed
Art craft	<ul style="list-style-type: none"> •Knitted or crocheted fabrics, embroidery in the piece, tapestries
Performing arts	<ul style="list-style-type: none"> •Musical instruments
Audiovisual and multimedia	<ul style="list-style-type: none"> •Cinematograph films, videogames and consoles •Recorded media (CDs, DVDs, gramophone records)
Architecture	<ul style="list-style-type: none"> •Architecture plans and drawings

1.2 "Quasi-transit" trade

Trade flows may be overvalued because of "quasi-transit" trade. The country's trade balance is not impacted, as the quasi-transit should increase by the same amount as the intra- and extra-EU trade flows (extra-EU imports followed by dispatches to the Member State of actual destination or arrivals from the Member State of actual export followed by extra-EU exports to the country of actual destination). Quasi-transit is known to impact mostly the Member States with big ports at the external EU border, in particular the Netherlands (hence its impact on figures is known as the 'Rotterdam effect'). In line with Community rules and as the country where goods are released for free circulation, the Netherlands records goods arriving in Dutch ports and destined for other EU Member States as extra-EU imports and as intra-EU export dispatches them from the Netherlands to those Member States, even though there is no impact on its economy. Quasi-transit is known to affect imports more, but exports are also affected. In exceptional cases, customs clearance occurs not in the Member State of actual export but in the Member State from which the goods leave EU customs territory.

Regulation 116/2009 on the export of cultural goods [2,5] includes the presentation of an export licence for the export of cultural goods outside the customs territory of the EU, as a measure to ensure that exports of cultural goods are subject to uniform controls at the Union's external borders.

Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a Member State covers objects of historical, paleontological, ethnographic and numismatic interest or scientific value, whether or not they form part of public or other collections or are single items, and whether or not they originate from

regular or clandestine excavations, provided that they are classified or defined as national treasures. Furthermore, cultural objects classified or defined as national treasures should no longer have to belong to categories or comply with thresholds related to their age and/or financial value in order to qualify for return under this directive.

In July 2014 the Commission adopted the communication, Towards an integrated approach to cultural heritage for Europe.[3,11] The communication points out that trafficking of cultural artefacts remains a difficult challenge requiring action at European and international level. While policies for maintenance, restoration, accessibility and exploitation of cultural heritage are primarily national or local responsibilities, cultural heritage is addressed directly in several EU policies, including those relating to culture, environment, research and innovation, education, regional development and customs cooperation.

In its section on cultural heritage in EU external relations, the communication highlights that 'there is a growing global demand for European expertise in heritage and that many Member States are willing to share their know-how to protect sites and to help partner countries develop sustainable, community-based strategies'. Cooperation in fighting the illicit traffic of cultural goods and the protection of national archives are therefore two fundamental aspects where efforts need to be stepped up. Heritage-related topics are addressed as part of cooperation with Africa, Asia-Europe Meeting (ASEM), with strategic partners such as China, India and Brazil, and with the European Neighbourhood Policy countries. In 2011-2013, EU development aid for the heritage sector exceeded €70 million in the Mediterranean region.

1.2.1 Import into EU of Cultural goods

The 2015 report by the Horizon 2020 Expert Group on Cultural Heritage Getting cultural heritage to work for Europe argues that cultural heritage is 'a significant force for 21st century Europe and lies at the heart of what it means to be European. It also provides a means of improving economic performance, people's lives and living environments and is regarded as a positive contributor to European gross domestic product (GDP).

Cultural heritage brings economic benefits to the tourism sector, but can be also seen as an innovative stimulant for growth and employment in a wide range of traditional and new industries.

Most recently, the 2016 Action plan to strengthen the fight against terrorist financing [6,2] recognised that terrorist groups use illicit excavations of archaeological sites to obtain cultural goods as a source of income. For this reason, the Commission intends to table a legislative proposal to reinforce the powers of customs authorities to address terrorism financing through trade in goods by, inter alia, tackling illegal gains made through dissimulation of trade transactions, misrepresentation of the value of goods and fictitious invoicing.

The European Commission intends to regulate the import into the EU of cultural goods, based on the results of a recently launched study to identify gaps in national legislation and on scrutiny of legislation at EU level. On 13 July 2017 the Commission tabled proposal for a regulation on the import of cultural goods, which will set out conditions and procedure for the entry of cultural goods into the customs territory of the EU. The Commission explained that the regulation would 'addresses the problem of cultural goods from third countries illegally taken from their historical and archaeological context being brought in to the EU, thereby fostering organised crime, terrorism financing, money laundering and tax evasion as well loss of cultural identity and heritage to source countries'.[4,7] The regulation follows up on EU legislation prohibiting trade in cultural goods from Iraq and Syria (Regulations 1210/2003 and 36/2012), the 2015 European Agenda on Security[4,10] and the 2016 Action Plan to step up the fight against the financing of terrorism.

2 Implications

The resolution indicates that illicit trade in cultural goods is now the third most significant illegal trade after drugs and arms. This illicit trade is dominated by organised criminal networks and current national and international mechanisms are neither adequately equipped nor properly supported to tackle the issue.²⁸ The resolution suggests that the Commission²⁹ focus on the fight against illicit trade in cultural artifacts. Moreover, Parliament calls on the Commission to devise a coordinated approach to combating that illegal trade, working together with those responsible at national level in the investigation services and in close cooperation with UNESCO and other international organisations. Furthermore, the European Parliament calls on those Member States that have not already done so to ratify the 1970 UNESCO Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property, the 1995 UNIDROIT Convention, the 1954 Hague Convention for the protection of cultural property in the event of armed conflict, and its second protocol of 1999.

European Parliament resolution of 8 September 2015 towards an integrated approach to cultural heritage for Europe this resolution points out that cultural tourism, which accounts for 40 % of European tourism,

is a key economic sector in terms of potential for growth and employment. The European Parliament calls on the Commission to improve its coordination of and support for Member States' efforts to fight the theft and illegal trafficking of cultural heritage assets inside and outside the EU and asks for the return of cultural objects unlawfully removed from the territory of a Member State.³¹ In addition, Parliament points to the potential afforded by interdisciplinary research projects with regard to preserving cultural heritage involving Member States and non-EU countries international community to prevent, protect, document and restore cultural goods in cases where EU cultural heritage or that of non-Member States is intentionally threatened. It encourages the adoption of international agreements to prevent illicit trafficking of cultural heritage. In addition, Parliament highlights the need for the EU, together with the UN and UNESCO, to defend heritage in danger and fight the looting of cultural objects in conflict areas.

The European Union does not have common rules on the import of cultural goods. Two EU acts govern only selected areas: Regulation (EU) 116/2009 lays down rules on the export of cultural goods, and Directive 2014/60/EU governs the return of cultural objects taken unlawfully from another EU country. Furthermore, most Member States impose restrictions on imports of culture goods (e.g. requiring declarations or controls) in line with Articles 34 and 35 of Treaty on the Functioning of the European Union (TFEU).

On 13 July 2017 the European Commission tabled a proposal for a regulation on the import of cultural goods, which will set out conditions and procedure for the entry of cultural goods into the customs territory of the EU.⁴ The Commission is also preparing a study on illicit trade in cultural goods in the EU and the new technologies available to combat it. [5,21]

2.1 conclusion

EU countries are the main trade partners for Georgia. Changing import-export rules on cultural goods will affect the trade balance of Georgia too. That's why it's right to harmonize with the normative documents of the EU. Special attention should be paid to quantitative and qualitative indicators of imported and exported cultural goods in Georgia.

REFERENCES

- [1] Convention on the protection and promotion of the diversity of cultural expressions, adopted in Paris, 20 October 2005. p.21
- [2] Report of the Horizon 2020 Expert Group on Cultural Heritage, European Commission, June 2015, p. 5.
- [3] Towards an integrated approach to cultural heritage for Europe <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0477&from=EN> p.11
- [4] Towards an EU strategy for international cultural relations <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016JC0029&from=EN> p.14
- [5] proposal for a regulation on the import of cultural goods [file:///C:/Users/Tsitsino/Downloads/PART-2017-307622V1%20\(1\).pdf](file:///C:/Users/Tsitsino/Downloads/PART-2017-307622V1%20(1).pdf) p.21
- [6] http://ec.europa.eu/justice/criminal/files/aml-factsheet_en.pdf Action plan to strengthen the fight against terrorist financing p.2