Illicit trade in cultural goods in Europe

Characteristics, criminal justice responses and an analysis of the applicability of technologies in the combat against the trade

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Final report

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Abstract

This study contributes to a better understanding of the illicit trade in cultural goods in Europe by providing insights into its various aspects, such as source, transit and destination of illicitly traded goods; trafficking routes; trends and patterns of trafficking and illicit trade operations and actors involved. It also discusses approaches to measuring the volume of the illicit trade, and explores national and international criminal justice responses to trafficking in cultural goods to identify challenges faced by the relevant law enforcement authorities in implementing effective responses. In this context, this study analyses the possible benefits and shortcomings of existing and new technologies that are used or can be used by competent authorities for identifying illicitly traded goods, for improving information sharing and for other forms of inter-agency cooperation. Based on the analysis of data and information collected through interviews with experts and practitioners, stakeholder surveys and desk-based research, this study formulates a range of recommendations and concrete steps that the EU and Member States should undertake in order to intensify and render more effective their efforts in combatting illicit trade in cultural goods.

Résumé

Cette étude permet de mieux comprendre le commerce illicite de biens culturels en Europe grâce aux renseignements fournis sur ses divers aspects, tels que la source, le transit et la destination des biens commercialisés illicitement, les itinéraires, les tendances et les caractéristiques du trafic ainsi que les opérations commerciales illicites et les acteurs impliqués. Elle aborde également des méthodes permettant de mesurer le volume du commerce illicite, et examine les mesures prises par la justice pénale nationale et internationale concernant le trafic de biens culturels afin d'identifier les difficultés de la mise en œuvre de mesures efficaces rencontrées par les autorités répressives compétentes. Dans ce contexte, cette étude analyse les éventuels avantages et inconvénients des technologies existantes et nouvelles qui sont utilisées ou auxquelles les autorités compétentes peuvent avoir recours afin d'identifier les biens commercialisés illicitement, d'améliorer le partage des informations et pour d'autres formes de coopération interinstitutions. Basée sur l'analyse des données et des informations recueillies lors d'entretiens avec des experts et des praticiens, d'enquêtes auprès d'intervenants et de recherches documentaires, cette étude formule une série de recommandations et de mesures concrètes que l'UE et les États membres doivent suivre et entreprendre afin d'intensifier et de rendre plus efficace leurs actions menées dans la lutte contre le commerce illicite de biens culturels.

Abstract

Diese Studie dient dem besseren Verständnis des illegalen Handels mit Kulturgütern in Europa anhand von Erkenntnissen über verschiedene Aspekte wie Quelle, Transit und Bestimmungsort der illegal gehandelten Güter, Handelsrouten, -trends und -muster sowie Schwarzhandelsoperationen und beteiligte Akteure. Sie behandelt außerdem verschiedene Ansätze zur Erfassung des Ausmaßes von illegalem Handel und untersucht das nationale und internationale strafrechtliche Instrumentarium für den illegalen Handel mit Kulturgütern zur Identifizierung von Problemen für die relevanten Strafverfolgungsbehörden bei der Umsetzung effektiver Maßnahmen. In diesem Zusammenhang analysiert diese Studie die möglichen Vor- und Nachteile vorhandener und neuer Technologien, die von zuständigen Behörden zur Identifizierung illegal gehandelter Güter eingesetzt werden bzw. eingesetzt werden können, um den Austausch von Informationen und verschiedene Formen der behördenübergreifenden Zusammenarbeit zu verbessern. Im Hinblick auf die Analyse von Daten und Informationen, die durch Interviews mit Experten und Praktikern, Umfragen mit Interessenvertretern sowie Sekundärforschung gesammelt wurden, führt diese Studie eine Reihe von Empfehlungen und konkreten Maßnahmen an, die sowohl die EU als auch ihre Mitgliedstaaten ergreifen sollten, um ihre Bemühungen zur Bekämpfung des illegalen Handels mit Kulturgütern zu intensivieren und effektiver zu gestalten.

Executive summary

Context for this study

The illicit trade in cultural goods affects cultural heritage worldwide and its proceeds fund organised crime, corruption and armed violence. International actors, including the United Nations and its specialised agency UNESCO, the World Customs Organisation, the Council of Europe and the European Union (EU) have condemned the damaging practices associated with the illicit trade and have adopted a plethora of legal instruments, political declarations and resolutions aimed at strengthening the protection of cultural property and cultural heritage. However, the lack of reliable data on the cross-border nature of trafficking in cultural objects reduces the effectiveness of measures intended to curb the illicit trade in cultural goods. This study was commissioned to respond to the need for a stronger evidence base and better insights into the phenomenon.

This study builds on and complements previous research, in particular the study on Preventing and Fighting Illicit Trafficking in Cultural Goods published by the European Commission Directorate-General Home Affairs in 2011[1]. Whereas the previous study focused on examining legal, administrative, and technical responses to the trade, the current study aims to provide a better understanding of the characteristics, organisation and operation of the illicit trade in cultural goods, describe challenges to criminal justice responses and offer an overview of existing and new technologies that can be used to combat this crime.

Based on the objectives of the study, **three research questions have guided the research and analysis**:
1. How can illicit trade in cultural goods in the EU be described in terms of object types; volumes; trafficking routes into, out of, and through the EU; and operational modes (means of transport, actors and agencies, methods of transaction)?
2. What are the criminal justice responses to trafficking in cultural goods and what are the challenges faced by the relevant authorities in implementing effective responses?
3. What new technologies can be used for identifying illicitly traded objects and for improving information sharing and other forms of inter-agency cooperation and collaboration?

In this Executive Summary, we limit ourselves to presenting the main findings and recommendations. Our overall findings regarding the illicit trade in cultural goods and a concrete list of action points for the EU and Member States are set out in Chapter 6 of this report.

Main activities conducted

To meet the study's objectives, the following activities have been conducted:
- Desk-based research and review of the relevant literature;

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[1] CECOJI-CNRS (2011) Study on preventing and fighting illicit trafficking in cultural goods in the European Union. Available at: https://publications.europa.eu/en/publication-detail/-/publication/ca56cfac-ad6b-45ab-b940-e1a7fa4458db .

- Scoping interviews and in-depth interviews with a wide range of stakeholders (36 interviews in total, see Annex 2);
- Surveys among various stakeholders and experts (see Annex 3);
- Snapshot analyses of online marketplaces;
- Case studies to illustrate various aspects of illicit trade in cultural goods.

This study has encountered **severe challenges in the data collection** necessary to analyse the dimensions of illicit trade in cultural goods. These challenges follow from several structural issues: data about illicit trade in cultural goods is not collected systematically in all (EU) countries; the information that is available is not readily shared between concerned stakeholders; police investigations are classified and the information about them that is (made) available can be of low quality and difficult to interpret. Research on this topic suffers severely from this inadequate availability of (good quality) data, which is perpetuated in a vicious circle simultaneously caused by and resulting from low political prioritisation of the issue: without a good understanding of the size of the problem, it is difficult to muster adequate resources to fight it. At the same time, without adequate dedicated resources the nature and scale of the problem cannot be properly understood. The structural issues encountered by this study—and what this says about the state of knowledge about this phenomenon—merit inclusion as a fundamental conclusion in their own right.

Main findings on the illicit trade in cultural goods

Characteristics of the illicit trade

Measuring or estimating the **size of the illicit trade in cultural goods** proves to be a challenging task as no reliable statistics exist that can be used to provide a comprehensive picture. The little data that is being recorded is patchy as recording approaches differ from country to country and between the police and customs (i.e. they use of different reporting codes). The factors that impact the quality of and the lack of data are manifold and include: different definitions of cultural goods; low political priority of the issue; lack of awareness, knowledge and expertise among the law enforcement; lack of central data collection point; lack of transparency of the art market; the large amount of fakes in the market; and warehousing of cultural objects (see Section 3.2).

In the view of these problems, this study has produced an estimate of the volume and value of the trade in cultural goods based on snapshot analyses of the online sales in antiquities and ancient and medieval coins. It was impossible to distinguish licit from illicit transactions in this exercise as there was no access to the sold objects and no way of establishing their authenticity or trading histories. Based on the snapshot analysis, European vendors sell in the region of 140.000 to 700.000 antiquities from Europe, North Africa and West Asia annually, with a total monetary value of €64 million to €318 million. European vendors also sell a minimum of 298.379 ancient and medieval coins annually, valued at more than €56 million.

A significant **part of the illicit trade in cultural goods has shifted online**, which has profound implications for supply and demand as well as operation modes. Online

marketplaces, including popular social networks, provide easier access to a larger pool cultural goods for a much larger audience of potential buyers than do traditional dealership storefronts. The need for personal contact between buyers and sellers, trust building and expert appraisal of items has been reduced. This has made the trade more profitable for sellers because they bear less risk and can offer large amounts of lower-value items that were previously not in demand. The anonymity of online transactions is also beneficial for illicit transactions and it has facilitated the infiltration of fake items in the market. There is limited motivation for illicit cultural goods to move to the dark web when it is relatively easy to sell them privately or on the visible web with impunity.

This study concludes that the shift to online trade has led to an increase in the amount of items sold, and lower-value small items (e.g. coins) are especially at risk. Smaller items can be smuggled or sent by post more easily than high-profile (and often more expensive) pieces like large statues.

By definition, illicit trade in cultural goods happens clandestinely and the **trafficking routes** involved are largely unknown to anyone except for the traffickers themselves. An up-to-date map of such routes cannot be created as trafficking routes are dynamic, responding both to legal, policy and law enforcement actions. It is difficult to draw conclusions on specific routes because, overall, the data is scarce, seizure samples are small and observed routes vary according to local/national perspectives. We present several examples of trafficking routes in our case studies. Globally, traffickers of cultural goods may use the same routes as those being used for other types of illicit goods. Certain logistical hubs are likely to be used for trafficking in cultural goods more or less consistently if they are natural gateways into the EU market (e.g. airports, seaports, free ports). As traffickers of cultural goods are interested in obscuring the origin of their goods and in creating false provenances, often these items are sent on circuitous routes with many destinations in between the country of origin (i.e. where it was looted) and destination (i.e. final buyer).

Links with organised crime and terrorism financing

While the art and antiquities market, for the most part, denies that illicit trade in cultural goods is a wide-spread phenomenon, law enforcement stakeholders overwhelmingly recognise the problem and indicate that organised crime is involved at all stages: directing looting, moving objects from dig sites to local markets, international transport, and, to a degree, interfacing with the licit market. Trafficking in cultural goods is a "low risk—high profit" crime because many items are easy to conceal, punishments are relatively low, the burden of proof for law enforcement is high and there are a number of legal loopholes (e.g. differences in national legislation, statutes of limitations, free ports) that can be exploited. Also, it is often a white-collar crime involving respectable and powerful members of society, which makes prosecution difficult.

The desk research conducted showed that there is clear evidence of intentional and regular destruction of archaeological sites and cultural property by various terrorist groups. The scale of looting, trafficking, and the amount of money generated from these activities as well as exact nature of involvement of terrorist groups in the illicit trade in cultural goods

remain unclear. The interviews conducted for this study did not produce any new evidence to substantiate the connection between terrorist groups and the illicit trade in cultural goods. At the time of the study, only one relevant case connecting the trade to terrorist financing has been brought to a European court, in this case by Spanish police. Interviewees reported only a small number of cases or no cases involving cultural goods from conflict zones, which may mean that the "hot" items are being warehoused, are not being recognised as coming from conflict zones, are not being effectively detected, or do not make up a significant portion of the market. Connecting the trafficking in cultural goods to terrorism financing may have been beneficial in that it has raised public and political awareness of the issue. However, looting and trafficking is an organised crime first and foremost. The over-emphasis of connections to terrorism in current anti-trafficking policy could potentially result in criminal justice and other responses that fail to address other significant aspects of the greater illicit trade in cultural goods.

Main findings on criminal justice responses

Good practices

This research has identified a number of practices, methods and tools that are deemed to be successful in the fight against illicit trade in cultural goods.

- One of the key examples of best practice is the **creation of a specialised unit within law enforcement** (both within the police and customs). Such units allow for a single contact point to be established which, in turn, helps to speed up communication processes at both the national and international level. In addition, a specialised unit can help with the accumulation of knowledge, expertise and intelligence by developing a network of experts, colleagues and informants. While support of the law enforcement by trained archaeologists and art experts is crucial for detection and investigation of illicitly traded goods, it is also necessary that officers acquire special training (e.g. through expert workshops).

- The establishment of **regular meetings between law enforcement bodies** (police, customs, public prosecutors) **and Ministries of Culture or other relevant bodies** also enhances the effectiveness of criminal justice responses. Regular meetings raise mutual awareness of the relevant work conducted by different law enforcement agencies and other stakeholders and increase effective inter-agency cooperation. Regular meetings can also aid in the accumulation of knowledge and improve the collective expertise of the participating agencies. Various forms of interaction (workshops, seminars, discussions, meetings) with academics, researchers and museums are also of great value for law enforcement, in particular with regards to the exchange of specific expertise, acquiring valuable skills and sharing information.

- Given the large number of stakeholders involved in combatting the illicit trade in cultural goods, establishing or appointing **one institution to actively drive and facilitate all efforts** at the national level would increase effectiveness. Such an institution does not necessarily have to be part of a law enforcement authority but

should have an overall mandate and be committed to organise, focus, coordinate and support all efforts by other actors. At the EU level, a single coordination and facilitation point for various national efforts is particularly desirable due to the cross-border nature of both the illicit trafficking of and the market for cultural good. This role could be played by a permanent specialised unit within Europol supported by the CULTNET network.

- On an international level, **informal or personal cross-border contacts** are of great value to law enforcement efforts as they help speed up official procedures or fill the gap where no official channels exist. International fora (such as INTERPOL and Europol) are perceived as effective cooperation and coordination mechanisms. Law enforcement officers use them to establish new contacts, exchange information and to conduct joint operations. The interviewees indicated that they would welcome the **creation of a permanent international forum specialised in illicit trade in cultural goods**, as it would provide a qualitative step-change to cross-border police efforts.

- Finally, an important factor that was identified in a number of countries is the energy and input that a **strong and dedicated leader** can bring. The domain of illicit trade in cultural goods is complex and, therefore, when a determined individual becomes interested in the topic, they serve as the driving force within a department, agency or country; this is beneficial for the fight against the illicit trade. A passionate leader who applies the laws carefully can spark interest and raise awareness elsewhere.

Shortcomings

Although numerous best practices were identified, this study also concludes that there are a substantial number of shortcomings and room for improvement in the current criminal justice responses.

- First and foremost, current **practices for collecting and sharing relevant data are incomplete and insufficient**. On the one hand, data is not collected systematically and, when collected, the data is not comparable across national agencies and Member States. On the other hand, there is sometimes simply no data to be shared as it is not recorded. Understanding and agreement are lacking on which data can be shared and how shared data should or can be used.

- Another weak aspect of the current approach toward the fight against the illicit trade in cultural goods is the **obscurity of transactions in and the lack of regulation of the art and antiquities market**. The art market largely denies the existence of the illicit trade in cultural goods, while insufficient due diligence, lack of registration of transactions and a culture of confidentiality create favourable conditions for illicit practices. At the same time, these factors account for the lack of understanding and insight in the art and antiquities market on the part of those who seek to monitor the trade and insufficient cooperation with the law enforcement on the part of industry stakeholders.

- **Differences in national laws** also impact the effectiveness of cross-border criminal justice responses. These result from different legal traditions and approaches across (European) countries, inconsistent implementation of EU-level directives, and different transposition or the lack of ratification or transposition of the major international legal instruments: in particular the UNESCO, UNIDROIT, the 2017 Council of Europe conventions on Offences relating to Cultural Property and the relevant UNSC resolutions. This hampers mutual legal assistance, complicates cross-border cooperation and leaves loopholes and gaps that can be used by criminals to their advantage.

- Finally, the application of existing or novel **technological tools should not be perceived of a panacea in the fight of the illicit trade in cultural goods**. Existing and some new technologies can help with identification of cultural goods that are known to be stolen, but most do not help in tagging and tracking of looted items and undocumented items. Some of the technologies could help with better detection of suspicious cultural goods, particularly those for sale online. However, to use these technologies effectively, law enforcement officers need to be both trained in technology and in archaeology/art. The study concludes that, due to the amount of items traded as well as the speed and nature of trade, special expertise and skills are necessary to effectively use most available technology tools — most likely on a much larger scale than the current capacities of the interviewed law enforcement agencies allow.

While the art market players deny the existence of the problem, the relevant authorities do indicate that illicit trade in cultural goods is sometimes linked to organised crime. In some instances for example the police and prosecutors come across this illegal activity while investigating other forms of crime. In general, it appears that the conditions in which the art market currently operates may facilitate criminal behaviour in the case of unscrupulous traders.

Recommendations

Based on the analysis of best practices and shortcomings of the current criminal justice responses to the illicit trade in cultural good, we have developed a number of high-level recommendations that could enhance the effectiveness of the efforts. For concrete steps that can be taken by the EU and Member States see Section 6.2.

- **Raising the profile of the problem politically** is central to enhancing efforts towards combatting the illicit trade in cultural goods. The problem could be elevated at an EU-level issue by establishing a specialised unit to coordinate national efforts (at Europol or as a separate agency). This/such unit could have an impact on the political profile at the national level by drawing attention to frontrunner countries and calling out those whose protection measures and criminal justice responses fall behind (e.g. with regard to ratification and implementation - if necessary - of the relevant conventions and UNSC resolutions).

- Raising of the political profile of this issue goes hand in hand with **awareness raising**. Awareness raising campaigns should be conducted at the national and EU levels and should target individual groups of stakeholders with purposeful, selective messages, taking into account the specific needs of each group and their preferred communication channels. It is essential to open a dialogue with the target audience about what its interest in combatting illicit trade in cultural goods is and how they can contribute. EU-and national-level campaigns should reinforce each other. It is crucial that the communicated information is correct and free from exaggerations and scandalous or premature conclusions. Journalists, social media influencers in the heritage field, and bloggers — being important intermediaries and influencers of public opinion — should be specially targeted.

- One of the findings of this study is how **many gaps in our understanding and moot points related to the illicit trade in cultural goods still exist**. There is a strong need for further research aimed at improving the evidence base that, in turn, helps refine research methods and analysis and provides better insights into understanding the illicit traffic in cultural goods, as well as into the art and antiquities market. Targeted investments into the creation of the right conditions for such research (namely systematic and consistent data collection by national authorities) should be made at the national and EU level. Researchers should be encouraged to pick up the relevant topics (e.g. by announcing research grants through the Horizon Europe programme and supporting the creation of on-going research centres and chairs). "Cultural goods" is a broad category, and targeted research into the trade of distinct categories such as ancient coins, religious objects, historical manuscripts etc should enable more nuanced and effective responses. The criminal and financial aspects of the trade are also in urgent need of further research.

- **Transparency in the art and antiquities market should be increased**, including by introducing scrutiny and transparency obligations where necessary. These should apply to offline and online sales. The EU and Member States should explore how to ensure the traceability of the traded cultural objects (e.g. through creation of national inventories, introducing registering obligations and due diligence) and what role online marketplaces could play in it. Ensuring market transparency and best practices regarding due diligence should be used to improve the relationship between the authorities and art dealers and collectors, while allowing the market to improve its reputation.

- **Consideration needs to be given to how regulation and monitoring of online sales can be improved**. As an increasingly large portion of illicit trade in cultural goods has moved online, the need for regulating and monitoring online sales has increased accordingly. In line with the previous recommendation, the goal should be to increase transparency and reduce the scope for illicit sales of cultural goods.

- **Data and information exchange should be fostered and enabled through different channels, among different stakeholders and at different levels**. Cooperation and data sharing across law enforcement agencies at the national level should be a national priority. In addition, countries should consider and implement

different access regimes for different database users. At the EU level, interoperability of national databases should be ensured, as should their linking with the INTERPOL database.

- To further improve the relevant data pool, **integration and interlinking of national inventories of cultural heritage, museum databases and law enforcement databases** should be aspired to. The police and customs databases should be able to grab, extract and export all necessary information from national inventories when an object has been seized or found. Different technological solutions could be employed, for example, artificial intelligence or the creation of one access portal for all inventories.

- With regards to the application of (novel) technologies, it is essential to strive **to achieve an equal level of technical endowment across Europe**. When elevating the level of technological advancement in Member States, investment in the technical expertise of police officers in specialised units is required, for example, for using web crawlers and image recognition software to collect and analyse data. The EU could support such training of national police officers (e.g. through CULTNET or Europol). It is recommended that artificial intelligence (particularly machine learning) applications and mobile applications are developed, perhaps in partnership with academia or industry. Relevant projects can be funded by pooling resources of several Member States, public procurement at the EU level and/or project calls under Horizon Europe.

- It is essential to **acknowledge the strengths of different approaches** to combatting the illicit trade in cultural goods across Member States and allow for flexibility in their application. It should be recognised that not every country has the same needs and resources. Better-positioned countries with a wealth of experience on these topics should have room to experiment; they can take on the role of pioneers and serve as an example to the others. The EU should support such national efforts, encourage joint initiatives and enable sharing and mutual learning (for example, within the CULTNET framework).

- In the case of the illicit trade in cultural goods, efforts have already been made to mitigate some of the causes of illegal excavations (i.e. through capacity building, technical assistance, etc) in conflict zones or to harmonise relevant national laws, provide the basis for mutual legal assistance and to eliminate legal loopholes. However, there is still room for improvement. Member States could provide **special training for military, police and diplomatic staff deployed to third countries**. Countries should also ratify and effectively transpose in the national law UNESCO Convention, UNIDROIT Convention and Council of Europe Convention. The requirements provided in the relevant UNSC resolutions should be complied with.

- The EU can also **include cultural heritage protection in larger development projects funded by development aid,** and encourage Member States to do the same, particularly in cases where sustainable local income streams beyond looting and illicit trafficking are supported.

Résumé analytique

Contexte pour cette étude

Le commerce illicite de biens culturels a une incidence sur le patrimoine culturel dans le monde entier, et ses recettes financent le crime organisé, la corruption et la violence armée. Les acteurs internationaux, y compris les Nations Unies et son institution spécialisée l'UNESCO, l'Organisation mondiale des douanes, le Conseil de l'Europe et l'Union européenne (UE) ont condamné les pratiques dommageables liées au commerce illicite et ont adopté une pléthore d'instruments juridiques, de déclarations et de résolutions politiques visant à renforcer la protection des biens et du patrimoine culturels. Toutefois, le manque de données fiables sur la nature transfrontalière du trafic d'objets culturels réduit l'efficacité des mesures destinées à freiner le commerce illicite de biens culturels. Cette étude a été réalisée pour répondre à la nécessité de disposer d'éléments plus probants et pour mieux comprendre le phénomène.

Par ailleurs, elle s'appuie sur des recherches antérieures et les complète, notamment l'étude sur la Prévention et la lutte contre le trafic illicite de biens culturels publiée en 2011 par la Direction générale des affaires intérieures de la Commission européenne. Alors que l'étude précédente portait sur l'examen des mesures juridiques, administratives et techniques en matière de commerce, la présente étude vise à mieux comprendre les caractéristiques, l'organisation et le fonctionnement du commerce illicite de biens culturels, à décrire les difficultés quant aux mesures prises par la justice pénale et à offrir un aperçu des technologies existantes et nouvelles pouvant être utilisées pour lutter contre ce crime.

En fonction des objectifs de l'étude, **trois questions de recherche ont guidé les recherches et l'analyse**:
1. Comment le commerce illicite de biens culturels dans l'Union européenne peut-il être décrit en termes de types d'objet, de volumes et d'itinéraires en provenance et au sein de l'UE ainsi que de modes opératoires (moyens de transport, acteurs et organismes, méthodes de transaction) ?
2. Quelles sont les mesures prises par la justice pénale pour lutter contre le trafic de biens culturels et quelles sont les difficultés rencontrées par les autorités compétentes dans la mise en œuvre de mesures efficaces ?
3. Quelles nouvelles technologies peuvent être utilisées pour identifier des objets issus du commerce illicite et pour améliorer le partage des informations et d'autres formes de coopération et de collaboration interinstitutions ?

Dans ce Résumé analytique, nous nous limitons à la présentation des principales conclusions et recommandations. Nos conclusions générales en matière de commerce illicite de biens culturels et une liste concrète des mesures destinées à l'UE et aux États membres sont énoncées au chapitre 6 du présent rapport.

Principales activités menées

Pour répondre aux objectifs de l'étude, les actions suivantes ont été menées :
• Une recherche documentaire et un examen de la documentation pertinente ;

- Des entrevues encadrées et poussées avec un large éventail d'intervenants (36 entretiens au total, voir l'annexe 2) ;
- Des enquêtes réalisées auprès de parties prenantes et d'experts divers (voir l'annexe 3) ;
- Des analyses rapides des marchés en ligne ;
- Des études de cas pour illustrer divers aspects du commerce illicite de biens culturels.

Cette étude a été confrontée à **d'importantes difficultés en matière de collecte des données** nécessaires à l'analyse des aspects du commerce illicite de biens culturels. Ces défis découlent de plusieurs problèmes structurels : les données sur le commerce illicite de biens culturels ne sont pas recueillies systématiquement dans tous les pays de l'(UE) ; les renseignements disponibles ne sont pas facilement partagés entre les parties prenantes concernées ; les enquêtes de police sont classées et les informations à leur sujet qui sont (rendues) disponibles peuvent être de mauvaise qualité et difficiles à interpréter. La recherche sur ce thème pâtit de cette absence de disponibilité de données de (bonne qualité), qui se perpétue dans un cercle vicieux, causée par la même occasion par et résultant d'une faible priorité mise par les politiques pour résoudre le problème. Sans une bonne compréhension de l'ampleur du problème, il est difficile de mobiliser les ressources adéquates pour y faire face. En même temps, sans les ressources dédiées, il est impossible de bien saisir la nature et l'envergure du problème. Les problèmes structurels rencontrés par cette étude, et ce que cela indique sur l'état des connaissances sur ce phénomène, valent la peine d'être intégrés comme une conclusion fondamentale en soi.

Principales conclusions sur le commerce illicite de biens culturels

Caractéristiques du commerce illicite

Mesurer ou estimer **l'ampleur du commerce illicite de biens culturels** s'avère être une tâche difficile du fait qu'aucune statistique fiable pouvant être utilisée n'existe pour offrir une vue d'ensemble. Le peu de données qui a été rapporté est inégal, les méthodes de notification variant d'un pays à l'autre et entre la police et les douanes (en d'autres termes, ils utilisent des codes de déclaration différents). Les facteurs qui jouent sur la qualité et l'absence de données sont multiples et comprennent : des définitions différentes des biens culturels, une faible priorité du problème par les politiques, le manque de sensibilisation, de connaissances et d'expertise des services répressifs, l'absence de serveur de données centralisé, le manque de transparence du marché de l'art, la quantité importante de contrefaçons sur le marché et l'entreposage des objets culturels (voir l'article 3.2).

Considérant ces problèmes, cette étude a produit une estimation du volume et de la valeur du commerce de biens culturels fondée sur des analyses rapides des ventes en ligne de pièces de monnaie médiévales et anciennes. Il était impossible de distinguer les transactions illicites des transactions licites dans cet exercice puisqu'il n'y avait pas d'accès aux objets vendus et aucun moyen d'établir leur authenticité ou de connaître leur historique commercial. D'après l'analyse rapide, les marchands européens vendent chaque année dans la région entre 140 000 et 700 000 antiquités provenant d'Europe, d'Afrique du Nord et d'Asie de l'Ouest, s'élevant à un montant total oscillant entre 64 et 318 millions

d'euros. Ils vendent également au moins 298 379 pièces de monnaie anciennes et médiévales, dont la valeur s'élève à plus de 56 millions d'euros.

Une partie importante du commerce illicite de biens culturels se faisant désormais en ligne, les répercussions sur l'offre et la demande ainsi que sur les modes opératoires sont donc considérables. Les marchés en ligne, y compris les réseaux sociaux populaires, facilitent l'accès à un ensemble plus important de biens culturels pour un public d'acheteurs potentiels beaucoup plus large que les vitrines classiques des marchands. La nécessité d'un interlocuteur privilégié entre les acheteurs et les vendeurs, l'instauration d'une confiance et l'estimation des biens par un expert ont été réduites. Le commerce est devenu plus lucratif pour les vendeurs du fait qu'ils supportent moins de risques et qu'ils peuvent offrir un volume important de produits de faible valeur qui n'étaient auparavant pas demandés. Également bénéfique aux transactions illicites, l'anonymat des transactions en ligne a facilité l'infiltration des contrefaçons sur le marché. La motivation est limitée pour ce qui est de passer par l'Internet sombre pour le trafic illicite de biens culturels lorsqu'il est relativement facile de les vendre en privé ou sur la Toile visible en toute impunité.

Cette étude conclut que le passage au commerce en ligne a entraîné une augmentation de la quantité d'objets vendus. Par ailleurs, de petits articles de faible valeur (p. ex. les pièces) présentent notamment des risques. Les petits objets peuvent être passés en contrebande ou envoyés par la poste plus facilement que les articles imposants (et souvent plus coûteux) comme de grandes statues.

Par définition, le commerce illicite de biens culturels se fait de manière clandestine et **les voies du trafic** empruntées sont généralement méconnues de tous, sauf par les trafiquants eux-mêmes. Il est impossible d'établir une carte mise à jour indiquant ces itinéraires, les voies du trafic changeant, pour pouvoir prendre des mesures à la fois juridiques, politiques et répressives. Tirer des conclusions sur des itinéraires en particulier s'avère difficile, car, globalement, les données sont rares, la saisie des échantillons est petite et les circuits observés varient en fonction du contexte local/national. Nous présentons plusieurs exemples d'itinéraires de trafic dans nos études de cas. À l'échelle planétaire, les trafiquants de biens culturels sont susceptibles d'emprunter les mêmes voies que celles utilisées par d'autres types de marchandises illicites. Certaines plateformes logistiques seraient plus ou moins régulièrement utilisées pour le trafic de biens culturels si elles sont des portes d'entrée physiques pour pénétrer le marché de l'UE (par exemple, les aéroports, les ports maritimes, les ports francs). Les trafiquants de biens culturels cherchant à masquer l'origine de leurs marchandises et à créer de fausses provenances, ces articles sont souvent envoyés sur des chemins détournés avec de nombreuses destinations entre le pays d'origine (en d'autres termes, où ils ont été pillés) et le pays de destination (à savoir, l'acheteur final).

Liens avec le crime organisé et le financement du terrorisme

Bien que le marché de l'art et des antiquités, en grande partie, nie que le commerce illicite de biens culturels est un phénomène répandu, la très grande majorité des représentants des services répressifs reconnaissent le problème et signalent que le crime organisé est

présent à tous les niveaux : la mise en scène de pillage, le déplacement d'objets depuis des sites de fouilles aux marchés locaux, le transport international, et, dans une certaine mesure, l'interface avec le marché licite. Le trafic de biens culturels est un crime au « risque faible et au bénéfice élevé », en raison du nombre important d'objets faciles à cacher, des sanctions relativement faibles, de la charge de la preuve élevée en matière de répression et d'un certain nombre de lacunes juridiques (p. ex. les différences entre les législations nationales, les délais de prescription, les ports francs) susceptibles d'être mises à profit. De plus, il s'agit d'une criminalité en col blanc impliquant le respect et le pouvoir de membres de la société, rendant les poursuites difficiles.

Le bureau menant les recherches a montré que, de toute évidence, divers groupes terroristes détruisent volontairement et en permanence des sites archéologiques et des biens culturels. L'ampleur du pillage, le trafic et les sommes d'argent provenant de ces activités ainsi que la nature exacte de l'implication de groupes terroristes dans le commerce illicite de biens culturels demeurent obscurs. Les entretiens pour cette étude n'a pas apporté de nouvelles preuves pour établir le lien entre les groupes terroristes et le commerce illicite de biens culturels. Au moment de l'étude, un seul cas pertinent reliant le commerce au financement des activités terroristes a été porté devant une Cour européenne, en l'occurrence, par la police espagnole. Les personnes interrogées ont signalé que seuls un petit nombre de cas ou aucun cas impliquant des biens culturels de zones de conflit, ce qui pourrait signifier que les objets « de valeur » sont entreposés, n'ont pas été imputés à des zones de conflit, n'ont effectivement pas été décelés ou représentent une part mineure du marché. Établir un lien entre le trafic de biens culturels et le financement du terrorisme peut être bénéfique dans le sens où cela sensibilise davantage les politiques et les citoyens au problème. Cependant, le pillage et le trafic sont d'abord et avant tout un crime organisé. L'accent trop important mis sur les liens avec le terrorisme dans les politiques actuelles de lutte contre ce trafic pourrait faire que la justice pénale et d'autres mesures ne tiennent pas compte des autres aspects non négligeables de l'immense commerce illicite de biens culturels.

Principales conclusions sur les mesures de la justice pénale

Bonnes pratiques

Cette étude a identifié un certain nombre de pratiques, de méthodes et d'outils jugés probants dans la lutte contre le commerce illicite de biens culturels.

- L'un des principaux exemples de meilleures pratiques est la **création d'une unité spécialisée au sein des forces de l'ordre** (à la fois au sein de la police et de la douane). Ces unités permettent la mise en place d'un interlocuteur unique qui, à son tour, contribue à l'accélération des processus de communication à l'échelle nationale et internationale. En outre, une unité spécialisée peut faciliter l'accumulation de connaissances, d'expertise et d'informations par la création d'un réseau de spécialistes, de collègues et d'informateurs. Bien que l'appui des services répressifs par des archéologues qualifiés et des experts en art soit essentiel afin de localiser et d'enquêter sur des biens commercialisés de manière illicite, les agents

doivent également suivre une formation spéciale (p. ex. par le biais d'ateliers d'experts).

- La mise en place **de réunions régulières entre les services de répression** (la police, la douane, le procureur général) **et les ministères de la Culture ou d'autres organes pertinents** renforce également l'efficacité des mesures de la justice pénale. Des réunions régulières permettent de sensibiliser davantage la compréhension mutuelle du travail effectué dans ce domaine par les différents services de répression et les autres parties prenantes, ainsi que d'intensifier la coopération effective interinstitutions. Des réunions régulières peuvent également participer à l'accumulation des connaissances et à parfaire l'expertise collective des organismes participants. Les diverses formes d'interaction (ateliers, séminaires, discussions, réunions) avec les universitaires, les chercheurs et les musées sont également extrêmement précieuses pour les services de répression, notamment en ce qui concerne l'échange d'un certain savoir-faire, l'acquisition de compétences utiles et le partage d'informations.

- En raison du grand nombre d'acteurs impliqués dans la lutte contre le commerce illicite de biens culturels, **créer ou nommer une institution pour mener et faciliter activement les actions** au niveau national permettrait d'accroître l'efficacité. Une telle institution ne doit pas nécessairement faire partie d'une autorité chargée de l'application des lois, mais elle doit disposer d'un mandat général et s'engager à organiser, à se concentrer, à coordonner et à soutenir tous les efforts déployés par les autres acteurs. À l'échelle européenne, un seul point de coordination et de facilitation pour les diverses actions menées sur le plan national est particulièrement souhaitable en raison de la nature transfrontalière du trafic illicite et du marché de biens culturels. Une unité spécialisée et permanente au sein d'Europol bénéficiant de l'appui du réseau CULTNET pourrait remplir ce rôle.

- Sur le plan international, **les contacts informels et transfrontaliers** sont d'une importance cruciale pour une action répressive, car ils contribuent à accélérer les procédures officielles ou à combler les lacunes là où aucune voie hiérarchique n'existe. Les instances internationales (telles qu'INTERPOL et Europol) sont considérées comme étant des mécanismes de coopération et de coordination efficaces. Les agents de police font appel à ces instances pour établir de nouveaux contacts, échanger des informations et mener des opérations communes. Les personnes interrogées ont indiqué qu'elles seraient favorables à **la création d'un forum international permanent spécialisé dans le commerce illicite de biens culturels**, dans la mesure où cela assurerait un changement progressif qualitatif quant aux actions menées par la police transfrontalière.

- Enfin, un élément important identifié dans un certain nombre de pays est le dynamisme et la contribution apportés par un **dirigeant engagé et dévoué**. Le domaine du commerce illicite de biens culturels est complexe et, par conséquent, lorsqu'un individu s'intéresse à la question, cela sert de moteur au sein d'un ministère, d'un organisme ou d'un pays, ce qui est bénéfique pour lutter contre le

commerce illicite. Un dirigeant fervent qui applique les lois peut susciter de l'intérêt et alerter l'opinion publique dans les autres pays.

Lacunes

En dépit de l'évocation de nombreuses meilleures pratiques, cette étude conclut également qu'il existe un nombre important de lacunes et des possibilités d'améliorer les mesures prises actuellement par la justice pénale.

- Tout d'abord et avant tout, **les pratiques actuelles de collecte et de partage de données pertinentes sont incomplètes et insuffisantes**. D'une part, les informations ne sont pas recueillies de façon systématique et, lors de leur collecte, elles ne sont pas comparées entre les agences nationales et les États membres. D'autre part, parfois il n'existe tout simplement pas de données à partager comme elles ne sont pas rapportées. Il n'existe pas d'accords d'après lesquels les données peuvent être partagées ou sur la manière dont elles doivent et peuvent être utilisées.

- Un autre point faible de l'approche actuelle en matière de lutte contre le commerce illicite de biens culturels est **l'obscurité des transactions ainsi que l'absence de réglementations du marché de l'art et des antiquités**. Le marché de l'art nie en grande partie l'existence du commerce illicite de biens culturels, tandis que l'insuffisance de diligence raisonnable, l'absence d'enregistrement des transactions et une culture de la confidentialité créent des conditions favorables aux pratiques illicites. En même temps, ces facteurs représentent le manque de compréhension et de connaissances du marché de l'art et des antiquités de ceux qui cherchent à contrôler le commerce, ainsi que le manque de coopération avec les forces de l'ordre de la part des intervenants de l'industrie.

- **Les différences dans les législations nationales** ont aussi des répercussions sur l'efficacité des mesures transfrontalières de la justice pénale. Elles proviennent des traditions et des approches juridiques distinctes entre les pays (européens), de l'application contradictoire des directives au niveau de l'UE et d'une transposition différente ou de l'absence de ratification ou de transposition des principaux instruments juridiques internationaux : notamment la Convention de 1970 concernant les mesures à prendre pour interdire et empêcher l'importation, l'exportation et le transfert de propriété illicites des biens culturels, la Convention d'UNIDROIT de 1995 sur les biens culturels volés ou illicitement exportés, la 2017 Convention du Conseil de l'Europe sur les infractions visant des biens culturels et les résolutions pertinentes du Conseil de sécurité des Nations Unies. Cela constitue une entrave à l'assistance juridique mutuelle, complique la coopération transfrontalière et laisse des lacunes et des échappatoires dont des criminels peuvent tirer profit.

- Enfin, l'utilisation **d'outils technologiques nouveaux ou existants ne doit pas être considérée comme la panacée dans la lutte contre le commerce illicite de biens culturels**. Certains d'entre eux peuvent contribuer à l'identification des

biens culturels qui sont connus pour être volés, mais la plupart ne permettent pas de procéder à un marquage et de suivre des objets pillés et dépourvus de documents. Certaines de ces technologies pourraient permettre de détecter plus facilement des biens culturels suspects, notamment ceux en vente sur Internet. Cependant, pour les utiliser de façon efficace, les agents de police doivent être à la fois formés en technologie et en archéologie/art. L'étude conclut qu'en raison de la quantité d'articles échangés ainsi que de la vitesse et de la nature du commerce international, des compétences particulières sont requises afin d'utiliser efficacement la plupart des outils technologiques existants, probablement sur une échelle beaucoup plus vaste que les ressources actuelles des agents des services de répression interrogés le permettent.

Recommandations

D'après l'analyse des meilleures pratiques et l'insuffisance des mesures actuelles de la justice pénale en matière de commerce illicite de biens culturels, nous avons mis au point un certain nombre de recommandations de haut niveau qui pourraient améliorer l'efficacité des actions. Pour en savoir davantage sur les mesures concrètes que l'UE et les États membres peuvent prendre, veuillez-vous reporter à l'article 6.2.

- **Faire connaître le problème auprès de la classe politique** est essentiel afin de renforcer les actions en vue de combattre le commerce illicite de biens culturels. Le problème peut être porté au niveau européen par la mise en place d'une unité spécialisée pour coordonner les actions nationales (au sein d'Europol ou d'un organisme distinct). Cette unité pourrait avoir un impact sur l'enjeu politique sur le plan national en attirant l'attention des pays pionniers et en appelant ceux dont les mesures de protection et de la justice pénale prennent du retard (par exemple, en ce qui concerne la ratification et la mise en œuvre, le cas échéant, des conventions et des résolutions pertinentes du CSNU).

- Insister sur l'enjeu politique de ce problème va de pair avec le travail de **sensibilisation**. Des campagnes de sensibilisation doivent être menées à l'échelle nationale et européenne, et viser certains groupes d'intervenants avec leurs messages sélectifs et ciblés, en tenant compte des besoins spécifiques de chaque groupe et de leur moyen de communication préféré. Il est essentiel de mener un débat ouvert avec le public cible pour connaître son intérêt en matière de lutte contre le commerce illicite de biens culturels et sa manière d'y contribuer. Les campagnes nationales et européennes doivent être complémentaires. Il est primordial que les informations communiquées soient correctes, sans exagérations et dépourvues de conclusions prématurées ou scandaleuses. Les journalistes, les influenceurs des réseaux sociaux dans le domaine du patrimoine ainsi que les blogueurs, qui sont d'importants intermédiaires et influenceurs de l'opinion publique, doivent être tout particulièrement ciblés.

- L'une des conclusions de cette étude est de savoir comment il est possible qu'**il existe toujours de nombreuses lacunes dans notre compréhension et des points discutables quant au commerce illicite de biens culturels**. Il est

impératif de poursuivre les recherches visant à améliorer les données de base qui, à leur tour, contribuent à peaufiner les méthodes de recherche et d'analyse, et permettent de mieux comprendre le trafic illicite de biens culturels ainsi que le marché de l'art et des antiquités. Des investissements visant le développement de conditions appropriées à de telles recherches (à savoir la collecte de données systématique et cohérente par les autorités nationales) doivent être effectués au niveau national et européen. Les chercheurs doivent être invités à considérer les sujets pertinents (p. ex. par l'annonce de subventions pour la recherche par le biais du programme Horizon Europe et par leur soutien à la création actuelle de centres et de chaires de recherche). Les « Biens culturels » représentent une catégorie vaste, et la recherche visant le commerce des différentes catégories, telles que les pièces de monnaie, les objets religieux, les manuscrits historiques, etc. doit permettre des mesures plus efficaces et plus nuancées. Les aspects financiers et criminels du commerce international nécessitent également de poursuivre les recherches.

- Il faut davantage **de transparence sur le marché de l'art et des antiquités**, notamment par l'introduction d'obligations de contrôle et de transparence, le cas échéant. Ces obligations doivent s'appliquer aux ventes en ligne et hors ligne. L'UE et les États membres doivent étudier les moyens d'assurer la traçabilité des objets culturels commercialisés (p. ex., grâce à la création de répertoires nationaux, en intégrant des obligations d'enregistrement et une diligence appropriée) et le rôle que pourraient jouer les marchés en ligne à ce sujet. Garantir la transparence du marché et les meilleures pratiques en ce qui concerne la diligence raisonnable doit servir à améliorer les relations entre les autorités et les marchands d'art et les collectionneurs, tout en permettant au marché d'améliorer sa réputation.

- **Il importe d'examiner les moyens d'améliorer la réglementation et la surveillance des ventes en ligne.** Alors qu'une part de plus en plus importante du commerce illicite de biens culturels se fait désormais en ligne, la nécessité de réguler et de surveiller les ventes en ligne s'est de même accrue. Conformément à la recommandation précédente, l'objectif devrait être d'accroître la transparence et de réduire les possibilités de vente illicite de biens culturels.

- **L'échange de données et d'informations doit être privilégié et autorisé à travers les différents canaux, entre les différentes parties prenantes et à des niveaux distincts**. La coopération et le partage de données entre les services répressifs nationaux doivent être une priorité nationale. En outre, les pays doivent envisager et mettre en œuvre des régimes d'accès différents pour les utilisateurs de bases de données distinctes. Au niveau européen, l'interopérabilité des bases de données nationales doit être assurée, de même que leurs liens avec la base de données d'INTERPOL.

- Pour améliorer davantage la pertinence des bases de données, **l'intégration et l'interconnexion entre les répertoires nationaux du patrimoine culturel ainsi que les bases de données des musées et de la police** doivent y prétendre. Les bases de données de la police et des douanes doivent être en mesure

de saisir, d'extraire et d'exporter toutes les informations nécessaires à partir des répertoires nationaux lorsqu'un objet a été saisi ou trouvé. Différentes solutions technologiques peuvent être utilisées, par exemple, l'intelligence artificielle ou la création d'un portail pour accéder à l'ensemble des répertoires.

- En ce qui concerne l'utilisation de (nouvelles) technologies, il est primordial de s'efforcer à obtenir **un niveau égal de fonds en matière de ressources techniques au sein de l'Europ**e. Si le niveau de progrès technologique s'accroît parmi les États membres, il est alors nécessaire d'investir dans l'expertise technique des agents de police des unités spécialisées, par exemple, d'utiliser des métamoteurs de recherche et des logiciels de reconnaissance d'images pour recueillir et analyser des données. L'UE peut financer une telle formation destinée aux fonctionnaires de la police nationale (par exemple, par le biais de CULTNET ou d'Europol). Le développement d'applications d'intelligence artificielle (notamment l'apprentissage automatique) et d'applications mobiles, peut-être en partenariat avec les universités ou l'industrie, est recommandé. Les projets importants peuvent être financés par le regroupement des ressources provenant de plusieurs États membres et des marchés publics à l'échelle européenne et/ou par le biais d'un appel à projets dans le cadre du programme Horizon Europe.

- Il est essentiel de **reconnaître les points forts des différentes approches** en matière de lutte contre le commerce illicite de biens culturels parmi les États membres et de permettre de la souplesse au niveau de leur application. Il faut reconnaître que tous les pays ne disposent pas des mêmes besoins et ressources. Les pays les mieux placés maîtrisant ces sujets doivent laisser la place aux expériences ; ils peuvent jouer le rôle de pionniers et servir d'exemple aux autres. L'UE doit soutenir ces actions nationales, encourager les initiatives conjointes et permettre le partage et l'apprentissage mutuel (par exemple, dans le cadre du réseau CULTNET).

- Dans le cas du commerce illicite de biens culturels, des actions ont déjà été menées pour atténuer certaines des raisons de fouilles illégales (par exemple, en développant des compétences, par le biais de l'assistance technique, etc.) dans des zones de conflit ou afin d'harmoniser les lois nationales pertinentes, de servir de base à l'entraide judiciaire et de réduire à zéro les lacunes juridiques. Cependant, il existe encore une marge de progression. Les États membres peuvent prévoir une **formation spéciale pour l'armée, la police et le personnel diplomatique déployés dans les pays tiers**. Les pays doivent également ratifier et transposer efficacement dans leur droit national les Conventions de l'UNESCO, d'UNIDROIT et du Conseil de l'Europe. Les exigences prévues dans les résolutions pertinentes du Conseil de sécurité des Nations Unies doivent être respectées.

- L'UE peut également **inclure la protection du patrimoine culturel dans les grands projets de développement financés par l'aide au développement**, et inviter les États membres à faire de même, notamment en cas de prise en charge des revenus durables locaux, outre le pillage et le trafic illicite.

Kurzfassung

Kontext dieser Studie

Der illegale Handel mit Kulturgütern betrifft das kulturelle Erbe weltweit. Seine Einnahmen finanzieren die organisierte Kriminalität, Korruption und bewaffnete Gewalt. Internationale Akteure, darunter die Vereinten Nationen und ihre Sonderorganisation UNESCO, die Weltzollorganisation, der Europarat und die Europäische Union (EU), verurteilen die mit dem illegalen Handel verbundenen schädlichen Praktiken und haben verschiedene Rechtsinstrumente eingeführt, politische Erklärungen abgegeben und Beschlüsse gefasst, die darauf abzielen, den Schutz des kulturellen Eigentums und des kulturellen Erbes zu verstärken. Das Fehlen zuverlässiger Daten über den grenzüberschreitenden Charakter des illegalen Handels mit Kulturgütern beeinträchtigt jedoch die Wirksamkeit von Maßnahmen zu seiner Eindämmung. Diese Studie wurde in Auftrag gegeben, um der Notwendigkeit einer stärkeren Evidenzbasis und besserer Erkenntnisse über das Phänomen Rechnung zu tragen.

Diese Studie baut auf früheren Forschungsarbeiten auf und ergänzt sie, insbesondere die von der Generaldirektion Innere Angelegenheiten der Europäischen Kommission im Jahr 2011 veröffentlichte Studie zur Verhütung und Bekämpfung des illegalen Handels mit Kulturgütern. Während sich die vorangegangene Studie auf die Untersuchung der rechtlichen, administrativen und technischen Reaktionen auf den Handel konzentrierte, zielt die vorliegende Studie darauf ab, ein besseres Verständnis der Merkmale, der Organisation und der Verfahren des illegalen Handels mit Kulturgütern zu vermitteln, Herausforderungen für strafrechtliche Maßnahmen zu beschreiben und einen Überblick über bestehende und neue Technologien zu geben, die zur Bekämpfung dieses Verbrechens eingesetzt werden können.

Mit Blick auf die Ziele der Studie lagen der Forschung und Analyse **drei Forschungsfragen zugrunde**:
1. Wie kann der illegale Handel mit Kulturgütern in der EU anhand von Objekttypen, Volumen, Handelsrouten in die, aus der und durch die EU und Verfahrensmodi (Verkehrsmittel, Akteure und Agenturen, Transaktionsmethoden) beschrieben werden?
2. Welche strafrechtlichen Maßnahmen gibt es gegen den Schwarzhandel mit Kulturgütern und vor welchen Herausforderungen stehen die zuständigen Behörden bei der Umsetzung wirksamer Maßnahmen?
3. Welche neuen Technologien können zur Identifizierung illegal gehandelter Objekte sowie zur Verbesserung des Informationsaustauschs und anderer Formen der Zusammenarbeit zwischen den Behörden eingesetzt werden?

In dieser Kurzfassung beschränken wir uns auf die Präsentation der wichtigsten Erkenntnisse und Empfehlungen. Unsere allgemeinen Erkenntnisse zum illegalen Handel mit Kulturgütern und eine konkrete Liste von Aktionspunkten für die EU und ihre Mitgliedstaaten werden in Kapitel 6 dieses Berichts aufgeführt.

Die wichtigsten ergriffenen Maßnahmen

Um die Studienziele zu erreichen, wurden folgende Maßnahmen durchgeführt:
- Sekundärforschung und Prüfung der relevanten Literatur,
- umfangreiche und Tiefeninterviews mit einem breiten Spektrum an Interessengruppen (insgesamt 36 Interviews, siehe Anhang 2),
- Umfragen bei verschiedenen Interessengruppen und Experten (siehe Anhang 3),
- Schnappschussanalysen von Online-Marktplätzen,
- Fallstudien zur Veranschaulichung verschiedener Aspekte des illegalen Handels mit Kulturgütern.

Diese Studie ist bei der Datenerhebung, die zur Analyse des Ausmaßes des illegalen Handels mit Kulturgütern erforderlich ist, auf **große Herausforderungen gestoßen**. Diese Herausforderungen ergeben sich aus vielen strukturellen Problemen: Daten über den illegalen Handel mit Kulturgütern werden nicht in allen (EU-)Ländern systematisch erhoben, die verfügbaren Informationen werden nicht automatisch zwischen den betroffenen Interessengruppen ausgetauscht, polizeiliche Ermittlungen sind geheim und die verfügbaren bzw. verfügbar gemachten Informationen darüber können von geringer Qualität und schwer zu interpretieren sein. Die Forschung zu diesem Thema leidet stark unter dieser unzureichenden Verfügbarkeit von (qualitativ hochwertigen) Daten, die in einem Teufelskreis festhängen, der gleichzeitig durch und infolge einer geringen politischen Priorisierung des Themas verursacht wird: Ohne ein gutes Verständnis des Umfangs des Problems ist es schwierig, ausreichende Ressourcen für seine Bekämpfung aufzubringen. Gleichzeitig können die Art und das Ausmaß des Problems ohne ausreichende Ressourcen nicht richtig verstanden werden. Die strukturellen Probleme, mit denen diese Studie konfrontiert ist – und was das über den Wissensstand zu diesem Phänomen sagt –, sind eine grundlegende Schlussfolgerung für sich.

Die wichtigsten Erkenntnisse über den illegalen Handel mit Kulturgütern

Merkmale des illegalen Handels

Die Messung oder Schätzung des Ausmaßes des illegalen Handels mit Kulturgütern stellt eine anspruchsvolle Aufgabe dar, da es keine zuverlässigen Statistiken gibt, die ein umfassendes Bild vermitteln können. Die wenigen Daten, die erfasst werden, sind lückenhaft, da die Erfassungsansätze je nach Land sowie zwischen Polizei und Zoll unterschiedlich sind (d. h. sie verwenden unterschiedliche Meldecodes). Die Faktoren, die sich auf die Qualität und den Mangel an Daten auswirken, sind vielfältig und umfassen unter anderem: unterschiedliche Definitionen des Begriffs Kulturgut, geringe politische Priorität des Themas, mangelndes Bewusstsein, Wissen und Fachwissen bei der Strafverfolgung, fehlende zentrale Datenerfassungsstelle, mangelnde Transparenz des Kunstmarktes, eine große Anzahl an Fälschungen auf dem Markt sowie die Lagerung von Kulturgütern (siehe Abschnitt 3.2).

Angesichts dieser Probleme hat diese Studie eine Schätzung des Volumens und des Wertes des Handels mit Kulturgütern auf der Grundlage von Schnappschussanalysen des Online-Verkaufs von Antiquitäten sowie antiken und mittelalterlichen Münzen erhoben. Es war

unmöglich, bei dieser Aufgabe zwischen legalen und illegalen Transaktionen zu unterscheiden, da es keinen Zugang zu den verkauften Objekten und keine Möglichkeit gab, deren Echtheit oder Handelsgeschichte zu ermitteln. Basierend auf der Schnappschussanalyse verkaufen europäische Anbieter jährlich zwischen 140.000 bis 700.000 Antiquitäten aus Europa, Nordafrika und Westasien mit einem Gesamtwert von 64 bis 318 Millionen Euro. Europäische Anbieter verkaufen zudem jährlich mindestens 298.379 antike und mittelalterliche Münzen im Wert von mehr als 56 Millionen Euro.

Ein erheblicher Teil des illegalen Handels mit Kulturgütern hat sich online verschoben, was tiefgreifende Auswirkungen auf Angebot und Nachfrage sowie die Verfahrensmodi hat. Online-Marktplätze, einschließlich beliebter sozialer Netzwerke, bieten einem deutlich größeren potenziellen Käufer-Pool einen leichteren Zugang zu einem größeren Pool an Kulturgütern als traditionelle Händlergeschäfte. Der Bedarf an persönlichem Kontakt zwischen Käufern und Verkäufern, Vertrauensaufbau und Expertenbewertungen wurde reduziert. Dies hat den Handel für Verkäufer profitabler gemacht, da sie weniger Risiko tragen und große Mengen an preiswerteren Artikeln anbieten können, die bisher nicht gefragt waren. Die Anonymität von Online-Transaktionen ist auch für illegale Transaktionen von Vorteil und hat das Eindringen in den Markt mit Fälschungen erleichtert. Die Motivation für den Wechsel von illegalen Kulturgütern ins dunkle Netz hält sich in Grenzen, da es relativ einfach ist, sie ungestraft privat oder im sichtbaren Netz zu verkaufen.

Diese Studie kommt zu dem Schluss, dass die Verlagerung auf den Online-Handel zu einer Zunahme der verkauften Artikel geführt hat, wobei vor allem preiswertere Kleinteile (z. B. Münzen) gefährdet sind. Kleinere Artikel können leichter geschmuggelt oder per Post verschickt werden als hochkarätige (und oft teurere) Stücke wie große Statuen.

Der illegale Handel mit Kulturgütern erfolgt naturgemäß heimlich und die damit verbundenen **Handelswege** sind mit Ausnahme der Schwarzhändler selbst weitgehend unbekannt. Eine aktuelle Karte derartiger Routen kann nicht erstellt werden, da sie dynamisch sind und unentwegt auf rechtliche, politische und strafrechtliche Maßnahmen reagieren. Es ist schwierig, Rückschlüsse auf bestimmte Routen zu ziehen, da die Daten insgesamt knapp und die Stichproben klein sind und die beobachteten Routen je nach lokaler/nationaler Perspektive variieren. In unseren Fallstudien stellen wir mehrere Beispiele für Handelsrouten vor. Weltweit können Schwarzhändler von Kulturgütern die gleichen Wege nutzen wie jene, die für andere Arten von illegalen Gütern genutzt werden. Solange gewisse logistische Knotenpunkte natürliche Zugänge zum EU-Markt darstellen (z. B. Flughäfen, Seehäfen, Freihäfen) werden sie für den illegalen Handel mit Kulturgütern wahrscheinlich mehr oder weniger konsequent genutzt. Da es Schwarzhändlern von Kulturgütern wichtig ist, den Ursprung ihrer Waren zu verbergen und falsche Provenienzen zu schaffen, werden diese Güter oft auf Umwegen mit vielen Zwischenstopps zwischen Herkunftsland (d. h. dort, wo sie geplündert wurden) und Bestimmungsort (d. h. Endabnehmer) verschickt.

Verbindungen zur organisierten Kriminalität und Terrorismusfinanzierung

Während der Kunst- und Antiquitätenmarkt größtenteils leugnet, dass der illegale Handel mit Kulturgütern ein weit verbreitetes Phänomen ist, erkennen die Strafverfolgungsbehörden das Problem mit überwältigender Mehrheit an und weisen darauf hin, dass die organisierte Kriminalität in allen Phasen beteiligt ist: Organisation von Plünderungen, Bewegung von Objekten von Ausgrabungsstätten zu lokalen Märkten, internationaler Transport und bis zu einem gewissen Grad auch die Anbindung an den legalen Markt. Der Schwarzhandel mit Kulturgütern ist eine risikoarme und gewinnbringende Form von Kriminalität, da viele Dinge leicht zu verbergen und die Strafen relativ gering sind. Die Beweislast für die Strafverfolgung ist hoch und es gibt eine Reihe von Gesetzeslücken (z. B. Unterschiede in der nationalen Gesetzgebung, Verjährung, Freihäfen), die Schwarzhändler sich zunutze machen können. Darüber hinaus handelt es sich dabei um Wirtschaftsverbrechen mit Beteiligung seriöser und mächtiger Mitglieder der Gesellschaft, was die Strafverfolgung erschwert.

Die durchgeführte Sekundärforschung hat ergeben, dass es eindeutige Beweise für die vorsätzliche und regelmäßige Zerstörung archäologischer Stätten und Kulturgüter durch verschiedene terroristische Gruppen gibt. Das tatsächliche Ausmaß der Plünderungen, des Schwarzhandels und der damit verbundenen Geldbeträge sowie die genaue Art der Beteiligung terroristischer Gruppen am illegalen Handel mit Kulturgütern sind nach wie vor unklar. Die für diese Studie durchgeführten Interviews lieferten keine neuen Erkenntnisse, um den Zusammenhang zwischen terroristischen Gruppen und dem illegalen Handel mit Kulturgütern zu untermauern. Zum Zeitpunkt der Studie wurde nur ein relevanter Fall, der den Handel mit Terrorismusfinanzierung in Verbindung bringt, vor ein europäisches Gericht gebracht, in diesem Fall von der spanischen Polizei. Die Befragten berichteten von einer geringen Anzahl an oder gar keinen Fällen, die Kulturgüter aus Konfliktzonen betreffen, was bedeuten kann, dass „heiße" Gegenstände eingelagert oder nicht als aus Konfliktzonen stammend anerkannt werden bzw. nicht wirksam entdeckt werden oder keinen wesentlichen Teil des Marktes ausmachen. Die Verbindung zwischen dem illegalen Handel mit Kulturgütern und der Terrorismusfinanzierung kann insofern als Vorteil betrachtet werden, als sie das öffentliche und politische Bewusstsein für dieses Thema geschärft hat. Plünderung und illegaler Handel sind in erster Linie jedoch eine Form von organisiertem Verbrechen. Die übermäßige Betonung der Verbindungen zum Terrorismus in der derzeitigen Politik zur Bekämpfung des illegalen Handels könnte möglicherweise zu strafrechtlichen und anderen Maßnahmen führen, die andere wichtige Aspekte des illegalen Handels mit Kulturgütern im größeren Rahmen nicht berücksichtigen.

Wichtige Erkenntnisse zu strafrechtlichen Maßnahmen

Gute Praktiken

Diese Studie hat eine Reihe von Praktiken, Methoden und Instrumenten identifiziert, die bei der Bekämpfung des illegalen Handels mit Kulturgütern als erfolgreich gelten.

- Eines der wichtigsten Beispiele für bewährte Verfahren ist die **Schaffung einer Spezialeinheit innerhalb der Strafverfolgungsbehörden** (sowohl bei der

Polizei als auch beim Zoll). Diese Einheiten ermöglichen die Einrichtung einer einzigen Anlaufstelle, was wiederum dazu beiträgt, die Kommunikationsprozesse auf nationaler und internationaler Ebene zu beschleunigen. Darüber hinaus kann eine Spezialeinheit bei der Anhäufung von Wissen, Fachwissen und Intelligenz helfen, indem sie ein Netzwerk aus Experten, Kollegen und Informanten aufbaut. Während die Unterstützung der Strafverfolgung durch ausgebildete Archäologen und Kunstexperten für die Aufdeckung und Untersuchung illegal gehandelter Güter von entscheidender Bedeutung ist, ist es auch notwendig, dass die Beamten eine spezielle Ausbildung erhalten (z. B. durch Expertenworkshops).

- Die Einrichtung **regelmäßiger Treffen zwischen den Strafverfolgungsbehörden** (Polizei, Zoll, Staatsanwaltschaft) **und den Kultusministerien oder anderen zuständigen Stellen** erhöht ebenfalls die Wirksamkeit der strafrechtlichen Maßnahmen. Regelmäßige Treffen schärfen das gegenseitige Bewusstsein für die einschlägigen Arbeiten der verschiedenen Strafverfolgungsbehörden und anderer Interessengruppen und fördern die effektive Zusammenarbeit der Behörden untereinander. Regelmäßige Treffen können zudem dazu beitragen, Wissen anzuhäufen und das kollektive Fachwissen der beteiligten Behörden zu verbessern. Verschiedene Formen der Zusammenarbeit (Workshops, Seminare, Gesprächsrunden, Treffen) mit Wissenschaftlern, Forschern und Museen sind auch für die Strafverfolgungsbehörden von großem Wert, insbesondere in Bezug auf den Austausch von spezifischem Fachwissen und Informationen und den Erwerb wertvoller Fertigkeiten.

- Angesichts der großen Anzahl an Interessengruppen, die sich für die Bekämpfung des illegalen Handels mit Kulturgütern einsetzen, würde die Einrichtung oder Ernennung **einer Stelle, die alle Bemühungen auf nationaler Ebene aktiv vorantreibt und erleichtert**, die Wirksamkeit erhöhen. Eine solche Einrichtung muss nicht unbedingt Teil einer Strafverfolgungsbehörde sein, sondern sollte ein Gesamtmandat haben und sich verpflichten, alle Bemühungen anderer Akteure zu organisieren, zu bündeln, zu koordinieren und zu unterstützen. Auf EU-Ebene ist eine einzige Koordinierungs- und Förderstelle für verschiedene nationale Bemühungen besonders wünschenswert, da sowohl der illegale Handel mit Kulturgütern als auch der Markt für Kulturgüter grenzüberschreitend ist. Diese Rolle könnte eine permanente Spezialeinheit innerhalb von Europol übernehmen, die vom CULTNET-Netzwerk unterstützt wird.

- Auf internationaler Ebene sind **informelle oder persönliche grenzüberschreitende Kontakt**e von großem Wert für die Strafverfolgung, da sie dazu beitragen, die offiziellen Verfahren zu beschleunigen oder die Lücke zu schließen, in der es keine offiziellen Kanäle gibt. Internationale Foren (wie INTERPOL und Europol) werden als wirksame Kooperations- und Koordinierungsmechanismen wahrgenommen. Strafverfolgungsbeamte nutzen sie, um neue Kontakte zu knüpfen, Informationen auszutauschen und gemeinsame Aktionen durchzuführen. Die Befragten gaben an, dass sie die Einrichtung eines **dauerhaften internationalen Forums mit Spezialisierung auf den illegalen**

Handel mit Kulturgütern begrüßen würden, da dies einen wertvollen Schritt in Richtung grenzüberschreitender Polizeiarbeit darstellen würde.

- Mehrere Länder haben die Energie und den Input, den eine **starke und engagierte Führungskraft** bereitstellen kann, als wichtigen Faktor identifiziert. Der illegale Handel mit Kulturgütern ist ein komplexer Bereich. Doch wenn sich eine entschlossene Einzelperson für das Thema interessiert, fungiert sie als treibende Kraft innerhalb einer Abteilung, Agentur oder eines Landes. Für den Kampf gegen den illegalen Handel ist dies von Vorteil. Eine engagierte Führungskraft, die die Gesetze sorgfältig anwendet, kann Interesse wecken und das Bewusstsein fördern.

Mängel

Obwohl zahlreiche bewährte Verfahren identifiziert wurden, kommt diese Studie auch zu dem Schluss, dass es eine beträchtliche Anzahl an Mängeln und Verbesserungsmöglichkeiten bei den derzeitigen strafrechtlichen Maßnahmen gibt.

- In erster Linie sind die derzeitigen **Verfahren zur Erhebung und Weitergabe relevanter Daten unvollständig und unzureichend**. Einerseits werden die Daten nicht systematisch erhoben, und wenn sie erhoben werden, sind sie nicht zwischen den nationalen Behörden und den Mitgliedstaaten vergleichbar. Andererseits gibt es manchmal einfach keine Daten, die weitergegeben werden können, weil sie nicht erfasst werden. Es mangelt an Verständnis und Einverständnis darüber, welche Daten weitergegeben werden können und wie gemeinsame Daten verwendet werden sollen oder können.

- Ein weiterer schwacher Aspekt des derzeitigen Ansatzes zur Bekämpfung des illegalen Kulturgüterhandels ist die **Geheimhaltung der Transaktionen im Kunst- und Antiquitätenmarkt sowie dessen mangelnde Regulierung**. Der Kunstmarkt leugnet weitgehend die Existenz des illegalen Handels mit Kulturgütern, während unzureichende Sorgfaltspflicht, mangelnde Registrierung von Transaktionen und eine Kultur der Verschwiegenheit günstige Bedingungen für illegale Praktiken schaffen. Gleichzeitig erklären diese Faktoren das mangelnde Verständnis und die mangelnde Einsicht in den Kunst- und Antiquitätenmarkt seitens derer, die den Handel zu überwachen versuchen, sowie die unzureichende Zusammenarbeit der Interessengruppen der Branche mit den Strafverfolgungsbehörden.

- **Unterschiede in den nationalen Rechtsvorschriften** wirken sich auch auf die Wirksamkeit grenzüberschreitender strafrechtlicher Maßnahmen aus. Sie resultieren aus unterschiedlichen Rechtstraditionen und -ansätzen in den (europäischen) Ländern, einer inkonsistenten Umsetzung von Richtlinien auf EU-Ebene und einer unterschiedlichen Umsetzung oder mangelnden Ratifizierung oder Umsetzung der wichtigsten internationalen Rechtsinstrumente: insbesondere des Übereinkommens von 1970 über das Verbot und die Verhütung der illegalen Einfuhr, Ausfuhr und Übertragung von Kulturgut, des UNIDROIT-Übereinkommens von 1995 über gestohlene oder illegal ausgeführte Kulturgüter sowie der 2017

Übereinkommen des Europarates über Straftaten im Zusammenhang mit Kulturgut und der einschlägigen Resolutionen des Sicherheitsrates. Dies behindert die gegenseitige Rechtshilfe, erschwert die grenzüberschreitende Zusammenarbeit und hinterlässt Lücken, die von Kriminellen zu ihrem Vorteil genutzt werden können.

- Die Anwendung bestehender oder neuer **technologischer Instrumente sollte nicht als Allheilmittel bei der Bekämpfung des illegalen Handels mit Kulturgütern wahrgenommen werden**. Vorhandene und einige neue Technologien können bei der Identifizierung von Kulturgütern helfen, die bekanntermaßen gestohlen wurden. Die meisten helfen jedoch nicht bei der Kennzeichnung und Verfolgung von geraubten und nicht dokumentierten Gegenständen. Einige Technologien könnten dazu beitragen, verdächtige Kulturgüter – insbesondere solche, die online verkauft werden – besser zu erkennen. Um diese Technologien jedoch effektiv nutzen zu können, müssen die Strafverfolgungsbehörden sowohl in Technologie als auch in Archäologie/Kunst ausgebildet sein. Die Studie kommt zu dem Schluss, dass aufgrund der Menge an gehandelten Gegenständen sowie der Geschwindigkeit und Art des Handels besondere Fachkenntnisse und Fertigkeiten erforderlich sind, um die meisten verfügbaren Technologiewerkzeuge effektiv zu nutzen – höchstwahrscheinlich in einem viel größeren Umfang, als es die derzeitigen Kapazitäten der befragten Strafverfolgungsbehörden zulassen.

Empfehlungen

Auf Grundlage der Analyse bewährter Praktiken und Mängel der derzeitigen strafrechtlichen Maßnahmen für den illegalen Handel mit Kulturgütern haben wir verschiedene hochwertige Empfehlungen erarbeitet, die die Wirksamkeit der Bemühungen verbessern können. Für konkrete Schritte, die von der EU und ihren Mitgliedstaaten unternommen werden können, siehe Abschnitt 6.2.

- **Die politische Profilierung des Problems** ist von zentraler Bedeutung für die Verstärkung der Bemühungen zur Bekämpfung des illegalen Handels mit Kulturgütern. Das Problem könnte auf EU-Ebene durch die Einrichtung einer Spezialeinheit zur Koordinierung der nationalen Bemühungen (bei Europol oder als separate Stelle) angegangen werden. Diese/eine derartige Einheit könnte sich auf nationaler Ebene auf das politische Profil auswirken, indem sie auf die Spitzenländer aufmerksam macht und diejenigen hervorhebt, deren Schutz- und strafrechtliche Maßnahmen rückständig sind (z. B. im Hinblick auf Ratifizierung und, falls erforderlich, Umsetzung der einschlägigen Übereinkommen und Resolutionen des VN-Sicherheitsrates).

- Die Anhebung des politischen Profils dieses Themas verläuft parallel zur **Sensibilisierung**. Sensibilisierungskampagnen sollten auf nationaler und EU-Ebene durchgeführt werden und einzelne Gruppen von Interessenvertretern mit zielgerichteten, selektiven Botschaften ansprechen, wobei die spezifischen Bedürfnisse jeder Gruppe und ihre bevorzugten Kommunikationskanäle berücksichtigt werden sollten. Es ist unerlässlich, mit der Zielgruppe einen Dialog

darüber zu eröffnen, was ihr Interesse an der Bekämpfung des illegalen Handels mit Kulturgütern ist und wie sie dazu beitragen können. Kampagnen auf EU- und nationaler Ebene sollten sich gegenseitig stärken. Es ist von entscheidender Bedeutung, dass die übermittelten Informationen korrekt und frei von Übertreibungen und skandalösen oder vorzeitigen Schlussfolgerungen sind. Journalisten, Social-Media-Influencer im Bereich des Kulturerbes und Blogger – also wichtige Vermittler und Einflussnehmer auf die öffentliche Meinung – sollten gezielt angesprochen werden.

- Eines der Ergebnisse dieser Studie lautet, wie viele **Lücken in unserem Verständnis und Streitpunkte im Zusammenhang mit dem illegalen Handel mit Kulturgütern noch immer bestehen**. Es besteht ein großer Bedarf an weiterer Forschung zur Verbesserung der Evidenzbasis, die wiederum dazu beiträgt, Forschungsmethoden und -analysen zu verfeinern und bessere Einblicke in das Verständnis des illegalen Handels mit Kulturgütern sowie in den Kunst- und Antiquitätenmarkt zu gewinnen. Gezielte Investitionen in die Schaffung der richtigen Bedingungen für diese Forschung (insbesondere systematische und konsistente Datenerhebung durch nationale Behörden) sollten auf nationaler und EU-Ebene erfolgen. Forscher sollten ermutigt werden, relevante Themen aufzugreifen (z. B. durch die Ankündigung von Forschungsstipendien im Rahmen des „Horizon Europe"-Programms und die Unterstützung der Einrichtung laufender Forschungszentren und Lehrstühle). „Kulturgüter" umfassen eine breit gefächerte Kategorie und eine gezielte Erforschung des Handels mit verschiedenen Kategorien wie antiken Münzen, religiösen Objekten, historischen Manuskripten usw. sollte differenziertere und wirksamere Maßnahmen ermöglichen. Auch die strafrechtlichen und finanziellen Aspekte des Handels bedürfen dringend weiterer Forschung.

- **Die Transparenz auf dem Kunst- und Antiquitätenmarkt sollte** auch durch Einführung von Kontroll- und Transparenzverpflichtungen **erhöht werden**, sofern erforderlich. Diese sollten sowohl für Offline- als auch Online-Verkäufe gelten. Die EU und ihre Mitgliedstaaten sollten prüfen, wie die Rückverfolgbarkeit der gehandelten Kulturgüter gewährleistet werden kann (z. B. durch Erstellung nationaler Verzeichnisse, Einführung von Registerpflichten und Sorgfaltspflicht) und welche Rolle Online-Marktplätze dabei spielen können. Die Gewährleistung von Markttransparenz und bewährten Praktiken im Zusammenhang mit der Sorgfaltspflicht sollte genutzt werden, um die Beziehungen zwischen den Behörden und Kunsthändlern und Sammlern zu verbessern und gleichzeitig dem Markt zu ermöglichen, seinen Ruf zu verbessern.

- **Beachtung muss der Frage geschenkt werden, wie die Regulierung und Überwachung von Onlineverkäufen verbessert werden kann.** Da ein immer größerer Teil des illegalen Handels mit Kulturgütern online abgewickelt wird, ist der Bedarf an Regulierung und Überwachung des Onlineverkaufs entsprechend gestiegen. In Übereinstimmung mit der vorhergehenden Empfehlung sollte das Ziel darin bestehen, die Transparenz zu erhöhen und den Spielraum für den illegalen Verkauf von Kulturgütern zu verringern.

- **Der Daten- und Informationsaustausch sollte über verschiedene Kanäle, zwischen verschiedenen Interessengruppen und auf verschiedenen Ebenen gefördert und ermöglicht werden**. Die Zusammenarbeit und der Datenaustausch zwischen den Strafverfolgungsbehörden auf nationaler Ebene sollte eine nationale Priorität sein. Darüber hinaus sollten Länder unterschiedliche Zugangsregelungen für verschiedene Datenbanknutzer in Betracht ziehen und umsetzen. Auf EU-Ebene sollte die Interoperabilität der nationalen Datenbanken sowie deren Verknüpfung mit der INTERPOL-Datenbank gewährleistet sein.

- Um den **einschlägigen Datenpool weiter zu verbessern, sollte die Integration und Vernetzung der nationalen Verzeichnisse des Kulturerbes, der Museumsdatenbanken und der Strafverfolgungsdatenbanken angestrebt werden**. Die Polizei- und Zolldatenbanken sollten in der Lage sein, alle notwendigen Informationen aus den nationalen Verzeichnissen zu erfassen, zu extrahieren und zu exportieren, wenn ein Objekt beschlagnahmt oder gefunden wird. Unterschiedliche technologische Lösungen können eingesetzt werden, z. B. künstliche Intelligenz oder die Einrichtung eines Zugangsportals für alle Verzeichnisse.

- Im Hinblick auf die Anwendung von (neuen) Technologien ist es unerlässlich, **ein gleiches Maß an technischer Ausstattung in ganz Europa anzustreben**. Bei der Erhöhung des Niveaus des technologischen Fortschritts in den Mitgliedstaaten sind Investitionen in das technische Fachwissen von Polizeibeamten in Spezialeinheiten erforderlich, beispielsweise für den Einsatz von Webcrawlern und Bilderkennungssoftware zur Datenerhebung und -analyse. Die EU könnte eine solche Ausbildung nationaler Polizeibeamter unterstützen (z. B. über CULTNET oder Europol). Es wird empfohlen, Anwendungen der künstlichen Intelligenz (insbesondere des maschinellen Lernens) und mobile Anwendungen zu entwickeln, vielleicht in Zusammenarbeit mit Hochschulen oder der Industrie. Relevante Projekte können durch die Bündelung von Ressourcen mehrerer Mitgliedstaaten, öffentliches Auftragswesen auf EU-Ebene und/oder Projektaufrufe im Rahmen von Horizon Europe finanziert werden.

- Es ist wichtig, **die Stärken der verschiedenen Ansätze zur Bekämpfung des illegalen Handels mit Kulturgütern in den Mitgliedstaaten anzuerkennen** und Flexibilität bei ihrer Anwendung einzuräumen. Es sollte anerkannt werden, dass nicht jedes Land über die gleichen Bedürfnisse und Ressourcen verfügt. Besser positionierte Länder mit einem reichen Erfahrungsschatz zu diesen Themen sollten Raum zum Experimentieren haben. Sie können die Rolle von Pionieren übernehmen und als Vorbild für andere dienen. Die EU sollte derartige nationalen Bemühungen unterstützen, gemeinsame Initiativen fördern und den Austausch und das gegenseitige Lernen ermöglichen (z. B. im Rahmen von CULTNET).

- Im Falle des illegalen Handels mit Kulturgütern wurden bereits Anstrengungen unternommen, um einige der Ursachen für illegale Ausgrabungen in Konfliktgebieten zu mildern (d. h. durch Kapazitätsaufbau, technische Hilfe usw.) und die einschlägigen nationalen Gesetze zu harmonisieren sowie eine Grundlage für gegenseitige Rechtshilfe zu schaffen und Gesetzeslücken zu schließen. Doch es

besteht weiteres Verbesserungspotenzial. Mitgliedstaaten könnten eine **spezielle Ausbildung für militärisches, polizeiliches und diplomatisches Personal anbieten, das in Drittländer entsandt wird**. Länder sollten auch das UNESCO-Übereinkommen, das UNIDROIT-Übereinkommen und das Übereinkommen des Europarates ratifizieren und wirksam in nationales Recht umsetzen. Die in den einschlägigen Resolutionen des VN-Sicherheitsrates enthaltenen Anforderungen sollten eingehalten werden.

- Die EU kann den **Schutz des Kulturerbes auch in größere, durch Entwicklungshilfe finanzierte Entwicklungsprojekte einbeziehen** und Mitgliedstaaten ermutigen, dies ebenfalls zu tun, insbesondere in Fällen, in denen nachhaltige lokale Einkommensströme über Plünderungen und illegalen Handel hinaus unterstützt werden.

List of abbreviations

ADA	Antiquities Dealers Association
ALR	Art Loss Register
AML	Anti-Money Laundering
CEN	Customs Enforcement Network
CIS	Commonwealth of Independent States
CoE	Council of Europe
CULTNET	Informal Network of Law Enforcement Authorities and Expertise, competent in the field of Cultural Goods
EEA	European Economic Area
EMPACT	European Multidisciplinary Platform Against Criminal Threats
EU	European Union
Eurojust	European Union Agency for Criminal Justice Cooperation
Europol	European Union Agency for Law Enforcement Cooperation
FATF	Financial Action Task Force
FTE	Full-time equivalent
HS	Harmonized Commodity Description and Coding System/ Harmonized System
IADAA	International Association of Dealers in Ancient Art
ICOM	International Council of Museums
IMI	Internal Market Information system
INTERPOL	International Criminal Police Organisation
IS	Islamic State
ITR	Illicit Trade Report (by the WCO)
JCO	Joint customs operation

MENA   Middle East and North Africa

PSYCHE   Protection System for Cultural Heritage

PSEUD   Artworks portal evidence system (*Portál systému evidence uměleckých děl*)

RFID   Radio-frequency identification

SELEC   Southeast European Law Enforcement Centre

SIENA   Secure Information Exchange Network Application

SPK   Stiftung Preuβischer Kulturbesitz

UK   United Kingdom

UNESCO   United Nations Educational, Scientific and Cultural Organisation

UNIDROIT   International Institute for the Unification of Private Law

UNODC   United Nations Office on Drugs and Crime

UNSC   United Nations Security Council

USA   United Stated of America

WCO   World Customs Organisation

1

1. Introduction to this study

1.1 Background of this study, objectives and research questions

This chapter outlines the topical relevance of the study at hand and outlines the specific objectives and research questions of this study.

1.1.1 Context

The illicit trade in cultural goods damages cultural heritage worldwide. In addition, the proceeds of the illicit trade fund organised crime, corruption, and armed violence, including terrorism. The threats to cultural property and the damaging consequences of its illicit trade were first recognised in connection with armed conflicts, as enshrined in the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, together with its First Protocol of 1954 and Second Protocol of 1999.[2] The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property[3] recognised that the phenomenon of illicit trade in cultural goods was not limited to times of armed conflicts, and established a general regime of protection of cultural property from illicit activities.

A large number of international instruments have been adopted since in different international fora, targeting various aspects of illicit activities and aimed at strengthening the protection of cultural property and cultural heritage. The most relevant of them are the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects[4], the 2000 UN Convention against Transnational Organized Crime[5], and the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage[6]. The newly adopted Council of Europe Convention on Offences relating to Cultural Property[7] (so-called Nicosia Convention) focuses on the criminalisation of the illicit trafficking in cultural goods and intentional destruction of cultural property, extending the similar provisions contained in other conventions.

The UN General Assembly has been involved in preservation and further development of cultural values since 1972 and has adopted more than 25 resolutions[8] on the protection and return of cultural property. Since early 2000s, the UN Security Council has issued a

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[2] The official convention text with the protocols can be found at: http://portal.unesco.org/en/ev.php-URL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html .
[3] The official convention text can be found at: http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html .
[4] The official text can be found at: https://www.unidroit.org/instruments/cultural-property/1995-convention .
[5] The official text can be found at: https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html .
[6] The official web page of the convention is http://www.unesco.org/new/en/culture/themes/underwater-cultural-heritage/2001-convention/ .
[7] The so-called Nicosia Convention was adopted on 3 May 2017. See the respective press release and the text of the convention under: http://www.coe.int/en/web/culture-and-heritage/convention-on-offences-relating-to-cultural-property. As of writing, it has been signed by 11 countries and ratified by two. See https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/221/signatures?p_auth=1Lwi23Yn .
[8] See the list of the UN General Assembly Resolutions at: http://www.unesco.org/new/en/culture/themes/restitution-of-cultural-property/resolutions-adopted-by-the-united-nations-general-assembly-about-return-and-restitution-of-cultural-property/ .

series of Resolutions expressing grave concerns about and introducing concrete measures for protection of cultural property and cultural heritage from destruction and illicit trafficking as a result of armed conflicts and terrorist activities.[9] UN Security Council Resolution 2347[10] is dedicated entirely to the protection of cultural heritage including from illicit trafficking. UNESCO encouraged states to extend measures from the UNSC Resolutions to protect Yemeni and Libyan artefacts from destruction and illicit trade.[11]

Within the European Union, Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods[12] imposes uniform export controls at the EU's external borders. Council Directive 2014/60/EU of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State[13] provides mechanisms for the return of objects that have been illicitly traded within the EU. Following on UN Security Council Resolution 2199, trade controls have also been placed on Syrian and Iraqi cultural goods by (most recently) Council Regulation (EU) No 85/2013 of 31 January 2013 amending Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq,[14] and Council Regulation (EU) No 1332/2013 of 13 December 2013 amending Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria.[15] In 2019, a new Regulation on the import of cultural goods has been adopted to strengthen controls on the entry of illicitly-traded cultural goods into the European Union.[16]

In 2011 the European Commission Directorate-General Home Affairs published a Study on Preventing and Fighting Illicit Trafficking in Cultural Goods in the European Union[17], a report into controlling the illicit trade prepared by CECOJI-CNRS (further – EC 2011 Report). This report clarified relevant concepts and terminology, which we intend to follow here. Its main thrust was to examine legal, administrative and technical responses to the trade, and it made a series of recommendations. The findings of the EC 2011 Report have served as a foundation for the study at hand, however, our approach has focused upon obtaining evidence about the constitution, organisation and operation of the illicit trade and the problems facing criminal justice response.

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[9] See the following UN Security Council Resolutions (in chronological order): UNSC Res 1483 (22 May 2003), UN Doc S/RES/1483; UNSC Res 1546 (8 June 2004) UN Doc S/RES/1546; UNSC Res 2139 (22 February 2014) UN Doc S/RES/2139; UNSC Res 2199 (12 February 2015) UN Doc S/RES/2199; UNSC Res 2253 (17 December 2015) UN Doc S/RES/2253; UNSC Res 2322 (12 December 2016) UN Doc S/RES/2322; UNSC Res 2462 (28 March 2019) UN Doc S/RES/2462.
[10] UN Res 2347 (24 March 2017) UN Doc S/RES/2347.
[11] See the letter from the UNESCO Director-General, dated 18 May 2016, regarding the implementation of 199 (February 2015) and 2253 (December 2015) on sanctions for terrorist activities. Available at: http://unesdoc.unesco.org/images/0024/002448/244857e.pdf .
[12] OJ L 39 of 10.2.2009.
[13] Recast Directive, published in OJ L 159 of 28.5.2014.
[14] OJ L 32 of 1.2.2013.
[15] OJ L 335 of 14.12.2013.
[16] See the relevant documents on the EU's legislative train website: http://www.europarl.europa.eu/legislative-train/theme-a-balanced-and-progressive-trade-policy-to-harness-globalisation/file-import-of-cultural-goods. EU actions against illicit trade are summarised here: https://ec.europa.eu/culture/policy/culture-policies/trafficking_en.
17 Study available at: https://publications.europa.eu/en/publication-detail/-/publication/ca56cfac-ad6b-45ab-b940-e1a7fa4458db.

1.1.2 Study objectives and research questions

The general objective of this study has been to contribute to the understanding of the nature of the illicit trade in cultural goods, particularly its criminal organisation and operation, and to provide an overview of existing new technology tools that can be used to combat this crime, in order to support policy makers and enforcement authorities in developing and implementing effective countermeasures. The findings of the study will help policy makers and stakeholders identify and anticipate risks and threats in order to make informed decisions and develop more focused control and prevention measures.

Based on this, the specific objective of the study has been to gather, analyse and disseminate information, as well as cross-reference data, on key characteristics of the illicit trade in cultural goods into, from and within the EU. These characteristics are:
- source, transit and destination of illicitly traded goods;
- trafficking routes;
- dimensions, trends and patterns of trafficking;
- illicit trade operations and actors involved (especially involvement of organised criminal groups).

In line with these objectives, three main research questions have been formulated to guide this study:
1. How can illicit trade in cultural goods in the EU be described in terms of:
    a. Trafficking routes into, out of and through the EU;
    b. Volumes;
    c. Object types; and
    d. Operational modes (means of transport, actors and agencies, methods of transaction)?
2. What are the criminal justice responses to trafficking in cultural goods and what are challenges faced by the relevant authorities in implementing effective responses?
3. What new technologies can be used for identifying illicitly-traded objects and for improving information sharing and other forms of inter-agency cooperation and collaboration?

While answering these research questions, the study will also develop policy recommendations for future EU action.

1.2   Terminological note

The topic of this study, countering the illicit trade in cultural goods, suffers from a lack of terminological clarity as several terms can be used interchangeably to mean the same thing. Terms such as cultural objects, cultural goods, cultural property, cultural patrimony, art objects, artefacts, artworks, antiquities, among other terms, all may denote the objects in question depending on the context and language used. This study has, therefore, followed the EU legislation and the previously conducted studies and uses the term "cultural goods" as it was defined and used there.[18] **'Cultural goods'** is a broad concept and, in the framework of this study, refers to any object which is of importance for archaeology, prehistory, history, literature, art or science, which belongs to the categories listed in Annex 1 of Council Regulation (EC) No. 116/2009 and that also meets the minimum age threshold specified for each type of good. The EC 2011 Report introduced the idea of 'endangered heritage', noting that archaeological, religious and some privately held objects are particularly vulnerable to theft and illicit trade, particularly in conflict situations. Thus, following the EC 2011 Report, this study has considered the full range of cultural goods, but by force of circumstance has primarily been concerned with endangered heritage objects.

Another central term for this study that requires a definition is **illicit trade**. This term is notoriously difficult to define, and it is often used interchangeably with other terms, such as illegal trade or illicit trafficking. The difficulties linked to the definition of illicit trade have been examined in depth by the World Trade Organisation, which can be considered "home of international trade system", during its preparation of a Memorandum on illicit trade (Díaz-Cediel, Pak and Prasetyo, 2017). Having analysed various international legal instruments relevant to dealing with illicit trade, the WTO found that there is no internationally accepted, universal definition of the term. At the same time, they developed a general broad definition based on the identified common elements in sectoral conventions: "illicit trade means any commercial practice or transaction related to the production, acquisition, sale, purchase, shipment, movement, transfer, receipt, possession or distribution of (i) any illicit product defined as such by international law; or (ii) any licit product for non-licit purposes as defined by international law. Illicit trade also covers any conduct intended to facilitate such activities." For the purposes of this study, we have been using this definition adjusted to the context of cultural goods. This means we took into consideration relevant national and EU legal rules determining the illicit nature of production, acquisition, sale, purchase, shipment, movement, transfer, receipt, possession or distribution of cultural goods. The term **"trafficking"** (e.g. trafficking routes) is used interchangeably with **"illicit trade"** in the study.[19]

As indicated in the list of objectives, this study aims to support **enforcement authorities** in their activities, which target the illicit trade in cultural goods. Such authorities encompass, in the first instance, those law enforcement bodies who have a direct mandate

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[18] COM(2017) 375 of 13.07.2017.
[19] Whereas the terms "illicit trade" and "trafficking" are interchangeable, "illegal trade" has a different meaning. A trade transaction is illegal when it is forbidden by law, whereas illicit trade could refer to both a transaction forbidden by law or a transaction that is legal but transgresses a moral code. As cultural goods can be traded legally, the terms "trafficking" and "illicit trade" are used throughout this report to emphasise that what is under scrutiny concerns the exchange of goods in an illicit way.

to investigate and prosecute relevant behaviour and practices, namely national police forces, customs authorities and public prosecutors. The relevant **criminal justice responses** explored in this study can be described as the national capacity to detect, investigate and prosecute relevant crimes. We limit the research into criminal justice responses and challenges to practical and operational issues across different EU Member States. The study neither analyses nor compares the underlying national policy and legal rules as this topic was extensively covered in the 2017 study for DG TAXUD (Deloitte, 2017)[20], which examined ratification and implementation issues of both international and EU legal instruments in EU Member States.

What constitutes a protected cultural good and what constitutes illicit trade, both depend on the historic and cultural context and relevant legal frameworks (Interpol, 2014)[21]. In the context of this study, we acknowledge that different EU Member States have different approaches to the protection of cultural goods and different scopes of protection. This has further implications for criminal justice responses: criminalisation of acts involving cultural goods vary, so that actions that are legal in one country (e.g. using metal detectors to search for ancient coins) are considered a crime in another. It is out of the scope of this study to suggest one authoritative definition or solution for any of the discussed notions. Nevertheless, the difference in national approaches is a crucial point with a bearing on this study, and we will return to this while discussing the dimensions of trafficking (Chapter 3) and take it into account when making recommendations.

Finally, there is no internationally agreed-upon definition of '**acceptable provenance**', a key concept for this study. In general terms, provenance is documentation of ownership history, which allows buyers and sellers to trace objects back in time and to determine their origin and legal status. It is often not clear, when the term is used in a trade context, whether 'acceptable provenance' refers to only the origin of a piece, or only the transaction history for a set period of time (20, 30, 50, 100 years), or a combination of such considerations. There are also differing views within the art, heritage, academic, law enforcement, and legal communities on what actually constitutes proof of provenance.

1.3 Scope of the study

The scope of this study is based on the previously discussed terminology regarding cultural goods, illicit trade and criminal justice responses. Furthermore, in terms of **geographic coverage**, this study covers the EU-28, the European Economic Area (EEA) countries and countries of the Western Balkans, as required by the tender specifications. Following the requirements of the tender specifications and based on the initial desk research and scoping interviews with experts and stakeholders, we also surveyed Egypt, Lebanon, Turkey and Russia due to their importance as sources of or destinations for illicit cultural goods. The information gathered has been placed within a global context through comparative analysis with other information previously gathered by research team members in regions further afield during their work as the Trafficking Culture Research

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[20]https://ec.europa.eu/taxation_customs/sites/taxation/files/annex_08_dg_taxud_study_fighting_illicit_trafficking_in_cultural_goods_en.pdf

consortium (since 2011) and Cambridge University's Illicit Antiquities Research Centre (1996–2007).

The **temporal scope** of the study covers the period from 2000 to the time of publication. In consultation with experts in the scoping interviews, the year 2000 was selected as a cut-off point as this would allow the team to tap into the larger pool of data collected in recent years, but also to ensure that the results of the analysis are relevant in the present. The period of 18 years can be considered sufficient to identify short and long term trends that provide insight into the current situation. Moreover, the early to mid-noughties witnessed the dramatic technological changes from older "analogue" technologies to the global rise of the internet, mobile technologies, social media, etc. Starting the data collection from 2000 onwards has allowed us to better show the impact of new technologies by contrasting them with old ones.

1.4   Structure of this report

The report will first elaborate on the methodological approach applied to this research (Chapter 2). The different methods for data collection will be presented as will the main benefits and drawbacks of the applied methodology. In the chapters that follow, the findings and the corresponding analysis are presented. These are structured around the three different objectives of the study: an analysis of the dimensions of trafficking in cultural property (Chapter 3), criminal justice responses (Chapter 4) and a detailed overview and assessment of new technologies (Chapter 5). Finally, the overall conclusions and policy recommendations are presented in Chapter 6.

The report is complemented by three annexes. Annex 1 contains the full bibliography of sources that were used for and are referenced in this report. Annex 2 contains a list of stakeholders interviewed during the study. Annex 3 presents the results of the conducted survey.

2

2.   Methodology

In order to answer the research questions presented, we collected data on various elements of illicit trade in cultural goods and on criminal justice responses to illicit trade. Information was sought on the material parameters of illicit trade, including object types, volume, trafficking routes and operation modes of those participating. This was obtained from a range of sources and stakeholders. In addition, data collection focused on how law enforcement agencies seek to address this phenomenon, what obstacles they face (especially in relation to the trade's cross-border nature) and what could be of assistance in improving their capabilities to effectively tackle it.

The analysis presented in this report is based on a variety of data sources and data collection methods. A mix of data collection methods was used as explained below in order to cover the required geographic scope and range of issues, to reach out to knowledgeable experts and stakeholders, to obtain first-hand data and information and in an attempt to address the existing knowledge gaps.

2.1   Data collection

Throughout the study, data was collected via 4 principal avenues as shown in Figure 1. Each activity sought to build on the previous one.

Figure 1   Data collection approach
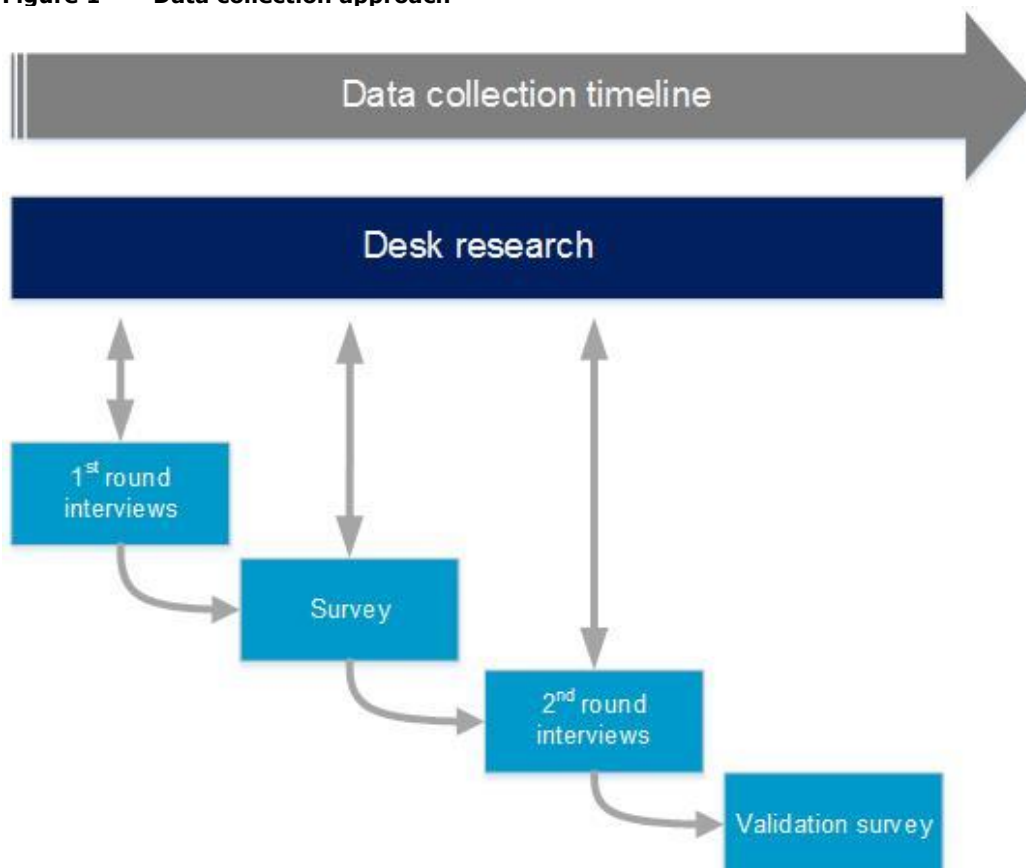
In total, 36 interviews were conducted with a wide range of stakeholders including law enforcement, customs, public prosecutors, governments, researchers, auction houses, art dealers, and art dealers' associations. An overview of all interviewees can be found in Annex 2. The interviews were conducted in two rounds; during the first round (thirteen interviews) the focus was on improving the understanding of the nature of the illicit trade in cultural goods in Europe, on scoping the research but also on gathering the initial data. The second round of interviews (23 interviews, of which 5 were in writing) investigated the key issues and challenges identified through the scoping interviews, the survey and desk research in more depth and gathered additional data to close the remaining information gaps.

All interviews were semi-structured allowing the interviewer to ask follow-up questions based on the answers provided by the interviewee. This enabled the interviewer to clarify answers that were unclear before and to investigate further (parts of) answers that were specifically relevant or interesting for the study at hand. In preparation for the interviews, interview guides were developed, and an indicative list of topics and questions was shared with the interviewees. Tailored topic sheets were created for different types of stakeholders (i.e. customs, law enforcement public prosecutors, researchers) which allowed the interviewer to ask questions that specifically related to the knowledge and experience of the interviewee. Given the semi-structured nature of the interviews, the set of topics discussed varied slightly per interview. Notes were taken during interviews. Some of the interviewees requested the interview notes and validated them.

An online survey was conducted among various stakeholder groups (from government and academics, to auction houses and traders) using an online tool. The survey allowed us to reach out to a greater number of stakeholders who could not be interviewed, and collect their views on the main issues of the study in a structured uniform fashion. We approached 139 potential respondents via a direct email invitation, and, in addition, we disseminated the link to the online survey via social media (i.e. Twitter and LinkedIn), through our professional network and by asking respondents to share the survey with their respective networks. In total, 124 respondents completed the survey between 23 May and 6 July 2018 (6,5 weeks). The respondents represented 39 countries (both EU and third countries including Albania, Australia, Bosnia Herzegovina, Georgia, New Zealand, Pakistan, Serbia, Turkey, USA and Venezuela). An anonymised overview of the stakeholders and the survey results can be found in Annex 3.

To validate the overall findings of the study and, in particular, the results of the stakeholder survey, the team conducted a validation survey among the participants of the CULTNET meeting in April 2019. This meeting was attended by a large group of law enforcement representatives from 20 EU Member States. In total, 13 country representatives filled out this survey. The anonymised details of the survey respondents as well as their responses can be found in Annex 3.

Desk research was conducted to identify and extract relevant data from a variety of sources, such as newspaper and other media articles, academic papers, NGO and IGO reports and press releases, police and customs press releases, court documents, and company and project web pages. The study looked at publications in a number of

languages: English, German, French, Italian, Spanish, Greek, Polish, and Dutch. Sources since 2000 have been included in the analysis, as 2000 was determined as being the cut-off point for the study.

2.2   Analysis

A number of approaches have been applied to analyse the findings from the various types of data sources. These approaches are discussed below.

2.2.1 Analysis of survey

In order to capture possible differences in perceptions and opinions, the responses to the survey were analysed by stakeholder category (e.g. law enforcement, government, dealers) as well as by country's role in the trafficking of cultural goods (i.e. source, transit and destination countries). The full analysis of the survey is presented in Annex 3. The insights gained from the analysis per stakeholder group and country were used to answer the research questions and are not presented separately in this report.

The responses to the validation survey were analysed in a similar manner and are presented in Annex 3.

2.2.2 Analysis of interviews

The software ATLAS.ti was used to assist the analysis of the interviews. The notes for each interview were inserted into the tool and the team applied open coding to deconstruct the interview notes. As a similar list of questions was used for every interview, each conversation covered a similar set of topics. Therefore, the team was able to identify 'concepts' which serve as umbrella codes covering a range of related topics (e.g. statistics). In addition, categories were identified which belong to a concept but are more specific (e.g. statistics – lack of statistics, statistics – clean statistics). By applying open coding, the team was able to create additional codes (concepts and categories) as the interviews were being analysed. This resulted in very specific codes that accurately reflect the perspectives of the interviewees.

2.2.3 Snapshot analysis

To complement our research and assist in estimating volume, value, and types of objects in the trade, various 'snapshots' were taken of online marketplaces where cultural goods are sold. Such snapshots (also known as 'cross-sectional analyses') cover the entire catalogue offered on a website in a specified short period of time, and provide insights into the market prices for particular goods, what types of objects are on offer, and how many are being offered at any particular time.

It is important to note that the objective of this cross-sectional analysis was to estimate the market for cultural goods, and as such we do not allege or assume that any or all objects sold have been involved in illicit trade, nor should the analysis be taken as a suggestion that any of the websites surveyed or their sellers/buyers have been involved in illicit trade.

For this report, a sampling strategy was used to produce some quantitative estimates of the material volume and monetary value of the trade inside Europe of certain categories of cultural objects. Two categories of material were analysed. The first has been termed "antiquities", comprising objects from ancient and early medieval (up to about 1066 AD) Europe, North Africa and West Asia (excluding Islamic) of a type normally sold in auction house antiquities sales. The second category comprised ancient and medieval coins, including Islamic coins (up to about 1453 AD). Selected European vendors were monitored for a period of time, often a short period, and sales results extrapolated to suggest annual returns. Non-European vendors selling inside Europe on the Internet were not included. This sampling methodology provided a realistic strategy to systematically assess parameters of the market within the scope of the study.

Snapshots have been taken of the ancient coin market on the Sixbid aggregator site, the VCoins aggregator site, eBay UK, eBay Fr, eBay De, which we understood to be the largest online marketplaces for coins. Furthermore, snapshots have been taken of the antiquities market on the Trocadero aggregator site, Invaluable aggregator site and Catawiki auction site. Through a sampling strategy, some estimates of the material volume and monetary value of the respective markets are provided, which are presented throughout the next chapter.

These snapshots tended to record quantities, types and prices of objects offered for sale, and not all of them record the prices for which items were actually sold. This is a known limitation of this type of research and can only be overcome by a longer-term monitoring project.

Information about prices realised for various objects is not always readily available, and the information that is available is of variable quality. Good quality sales information is made publicly available only by major auction houses, and so estimates of market size have tended to rely upon these data. Increasingly, market size estimates can be augmented by information made available on various Internet sites. Nevertheless, there are many private or "invisible" sales which are not made public, and it has been known for a long time that these sales can involve extremely high-value objects (Nørskov 2002: 291-292), so that their monetary contribution cannot be dismissed as unimportant (see box text).

Invisible market and private sales

"Invisible market" is a term introduced by Vinnie Nørskov in 2002, which she used to describe private sales involving cultural goods outside the public auction market. Objects bought through private sales on the invisible market are usually not publicly advertised and it is virtually impossible to ascertain their price or to establish their provenance. Nevertheless, research suggests that many museum objects are acquired through private sales and that the prices agreed are often higher than those achieved at public auction. For example, Nørskov showed that the first million-dollar museum acquisition of an antiquity took place in 1972 when the Metropolitan Museum of Art bought the Attic "Euphronios" krater from the dealer Robert Hecht. It was not until 1988 that an antiquity broke the million-dollar barrier at a public auction (a Cycladic figurine in New York).

Often, information about private sales is only made public retrospectively, sometimes when an object is placed on public display and triggers a recovery claim. In June 2004, for example, the Cleveland Museum of Art announced it had bought a previously unknown bronze statue of the Greek god Apollo Sauroktonos for a price rumoured to be in the region of $5 million. Cleveland had bought the statue from the Geneva branch of Phoenix Ancient Art, and had been provided with provenance documents stating that the statue had been on a formerly East German estate since the 1930s and sold to a Dutch dealer in 1994 for $1250, before purchase by Phoenix Ancient Art. In 2006, Greece claimed the statue had been discovered in the 1990s under the sea between Greece and Italy (Litt 2008). In July 2017, New York's Metropolitan Museum of Art bought a gilded ancient Egyptian coffin for 3,5 million Euros from Parisian dealer Christophe Kunicki. It was accompanied by provenance documents stretching back to a legal export from Egypt in 1971 (Moynihan 2019). The museum returned the coffin to Egypt in February 2019 after being presented with evidence that it had been looted in 2011. The provenance documents were shown to be fake (Metropolitan Museum 2019).

Buyers wishing to maintain secrecy at auction might use proxies for bidding or leave absentee bids. In the early 2000s, for example, Sheikh Saud al Thani was active in Europe buying a wide range of cultural goods on behalf of Qatar's National Council for Culture, Arts and Heritage. Al Thani bought privately from dealers, but also deployed proxies at auction (Adam 2005a). In one 2005 auction sale in London, he was reported as having employed "several agents" to bid for him (Adam 2005b: 48). Thanks to Al Thani, it was estimated that between 2003 and 2005 exports of cultural goods from the United Kingdom to Qatar were valued at about £50 million each year (Bailey 2005a). Christian Levett has been buying cultural goods, mainly antiquities, privately and at auction since 2003. In 2011, he opened the Musée d'Art Classique de Mougins in France to house and exhibit his collection (Fabrikant 2014). He never attends an auction in person, preferring to leave an absentee bid for what he thinks is an appropriate price (Wrathall 2013).

Although not within the scope of this study, this world of 'invisible' transactions and private sales applies to all cultural goods: not only archaeological objects but also works of art (such as paintings).

Cultural goods recirculate on the market, meaning that an object that is offered for sale often is re-sold several years later. Thus, in this type of study, there is a danger that the same object may be counted twice. An object bought at public auction, for example, may be sold subsequently at another auction or, more likely, on the Internet. Recirculation is not a problem for monetary estimates of market size, but could in theory cause over-estimation of material volumes. The presence of fakes and forgeries in the market has the same effect.

The snapshot analysis faces problems of definitional clarity. For figures quoted in the media, the terminology used by these sources to describe the material being traded and thus to quantify its volume and value is often vague and open to different interpretations. The term "antiquity", for example, can be considered as shorthand for "an object

manufactured by humans in ancient times", though that simply shifts the problem of definition onto "ancient times". Some members of the trade suggest that the term "antiquities" should be applied only to ancient objects from the area of the ancient Mediterranean, Europe and the Middle East, though it does not take long to find vendors offering Pre-Columbian antiquities for sale. Market categories such as "Asian Art", "Primitive Art", or "Islamic Art" also comprise antiquities to a greater or lesser extent.

Still, the snapshot analysis is of added value to understand the type of objects and value of these being put on sale, based on which inferences can be made regarding the volume of illicit trade in cultural goods. Interpreting snapshot analyses involves making the assumption that a certain link (in a certain way or form) can be made between the activities on these platforms and the illicit trade. The exact nature of this link is not known. At the same time, using snapshot analyses is justifiable, as it is one of the few ways actual research can be undertaken on this topic.

2.2.4 Analysis of technologies

Different technologies either in use now or possibly relevant in the future for criminal justice responses to the illicit trade in cultural goods were identified via the survey, desk research and interviews and analysed as part of the study. To answer the relevant research questions in a structured way, a template for the analysis of technologies was developed for this purpose (shown in Table 1 below).

Table 1   Template for analysis of technologies

Technologies: Template for Analysis	
Technology Name:	
Description:	
Applications:	
Perceived Strengths:	
Perceived Weaknesses:	
Related Technologies:	
References and Resources:	

The completed templates provide an analysis of each technology. The templates functioned as the 'raw data' for the meta-analysis which is presented in Chapter 5 below.

2.3   Benefits and shortcomings of the methodology

2.3.1   Benefits of the methodology

One of the strengths of the methodological approach applied in this research is that it allows for a comprehensive data collection. Through the variety of data collection methods (i.e. interviews, surveys, desk research and snapshot analyses) a rich sample of data on issues relevant to the research questions was gathered. Whereas the interviews provided detailed and nuanced information on relevant issues and the interviewee's perspectives and opinions, the survey aimed for more quantitative data from a wide range of stakeholders. Desk research provided historical data, assessments and analyses and informed on various theoretical and practical approaches that were used to tackle similar research questions. The snapshot analyses have functioned as case studies that focus on a specific marketplace and point in time. Moreover, the different types of data collection methods have yielded responses from different types of stakeholders and sources. By comparing and cumulating these data, this study provides a nuanced picture of the illicit trade in cultural goods in Europe that is as comprehensive as possible.

A further benefit of the comprehensive approach to the data collection is that it provides insights that are applicable to the whole of Europe based on evidence, collected from trusted sources, and not on extrapolation. Herewith, this study contributes considerably to the existing academic studies that are usually limited in scope and focus on one or two instances of illicit trade. The instances of illicit trade in cultural goods are examined in depth in such academic studies, but they do not allow the drawing of meaningful conclusions with respect to how common the particular instance is, whether it represents a trend and what the bigger picture looks like.

Much effort has been spent on gathering first-hand information and data on the illicit trade in cultural goods from law enforcement operatives and experts, and we have done so on an EU-wide scale, covering 28 EU Member States. Therefore, the study's results and recommendations are evidence-based and take into account different national circumstances, and the perceptions and opinions of renowned and experienced specialists. This approach yielded practical insights and anecdotes grounded in reality. We refrain from making extrapolations and inferences and include only findings, conclusions and recommendations that are supported by the interview and survey data.

Both the comprehensiveness of the study and the fact that it took a practical approach have enhanced its overall added value. The findings inform policy makers on what exactly the pertinent issues (problems) of the illicit trade in cultural goods are and their relative severity. This may help the reassessment of fundamental aspects upon which current policy was built and inform policy makers so they make more focused and effective choices in the future.

2.3.2 Shortcomings, limitations, mitigation measures

Despite its comprehensiveness, the applied methodology also has certain shortcomings and limitations. At a fundamental level, the study deals with a 'dark figure' problem: illicit trade in cultural goods is a crime, and such phenomena often are characterised by difficulties in obtaining hard numbers. Simply put, traffickers do not willingly report to the statistical office that they have successfully performed an illegal transaction. This limitation is acknowledged and mitigated to the extent possible by approaching the issue from different sides: via the trade (snapshot analysis), interviews with operatives from law enforcement and customs as well as practitioners and renowned experts in the (licit) trade in cultural goods, and by drawing on the academic and specialist literature available. Even if the methodology employed does not lead to exact figures, it does provide insights into the complexities of the phenomenon, the markets, and the criminal justice responses.

As a consequence, the general lack of reliable statistics on the topic of illicit trade in cultural goods posed a challenge to the research team. This was anticipated from the beginning of the study. To deal with this, the approach of the study was adjusted by shifting the focus from examining the available statistics, which have complications to the point of being of limited use, towards understanding why this lack of statistics exists in the first place. The study takes a step back to evaluate the fundamentals, aiming to understand the causes for the lack of statistics.

An operational issue is the relatively low response rate to the survey (124 completed responses). Despite leveraging the professional/ expert networks of the study team, support of the client and some of the key stakeholders, sending individual invitations to the survey to a large number of stakeholders (139) and repeated individual reminders as well as invitation for the target audience via thematic accounts in social media (through which 631 persons arrived at the survey starting page), not many respondents participated in the survey. The overview below provides in an indication of the response rates per stakeholder category.

Table 2   Response rates per stakeholder category

Type of stakeholder	N⁰	Type of stakeholder	N⁰
Art consultant	7	Inter-Governmental Organisation (IGO)	7
Art dealers	25	Investigative analyst / prosecutor	1
Attorney	1	Journalist	2
Auction house	8	Legal practitioner	1
Collector	33	Museum	19
Gallery	2	Non-Governmental Organisation (NGO)	6
Government representative	5	Police	9
Other	2	University / Research facility	27
Total = 155²²			

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[22] A total of 155 responses were recorded, nevertheless only 124 respondents reached the end of the survey.

For some categories of stakeholders (e.g. customs) the response rate was too low to draw any reliable conclusions. The issue was anticipated as previous research in this domain also suffered from the lack of responses. Nevertheless, the low response rates of customs and other stakeholder categories impacted the generalisability of the survey's findings. Analysing the responses to the survey provided by the different stakeholders as a whole would pollute the conclusions as the perceptions of heavily represented groups would weigh more than those with a low response rate. The study team analysed the survey responses per stakeholder category, but as the number of responses of a specific group was often too low, no significant conclusions could be drawn from most of these analyses. To mitigate this drawback, the team decided to use the survey findings to direct the data collection methods in the second part of the research. Additional efforts were made to schedule interviews with the stakeholder groups that were underrepresented in the survey; as a result, few validation interviews could be conducted with customs officials and public prosecutors. All in all, the team found that the willingness of some types of stakeholders to inform the study was low. This can be seen as a conclusion in itself: customs and public prosecutors do not have trafficking in cultural goods high on their 'priority list' and/ or are reluctant or unable to provide the necessary information.

The number of respondents that indicated they do not have any knowledge of illicit trade in cultural goods is of particular interest, as is their distribution per stakeholder category (see Table 3). The survey was programmed in such a way that those who indicated they did not have any knowledge of illicit trade in cultural goods were redirected towards the end of the survey.

Table 3   Knowledge of illicit trade in cultural goods per stakeholder category

Stakeholder group	Number of respondents	Number of respondents indicating 'no knowledge of illicit trade'	Percentage
Government	5	1	20%
Law Enforcement*	10	0	0%
IGOs	7	2	28.6%
Legal practitioners	2	0	0%
Museums	19	9	47.4%
Researchers	29	9	31%
NGOs	6	0	0%
Collectors	33	27	81.8%
Art Consultants	6	4	66.7%
Dealers	27	20	74.1%

* For the survey, the category "Law enforcement" covers only police representatives because no customs representatives responded to the survey.

This overview shows that, in some stakeholder categories, a substantial part of the respondents indicated they do not have any knowledge of illicit trade in cultural goods. Thus, even though these respondents did participate to the study, they did not provide any

insights in the nature, volume and value of the trade. The fact that over half the respondents that indicated they were dealers, art consultants or collectors indicated they have no knowledge of the trade whatsoever is an interesting finding in itself.

In the preparation phase of the study, the study team prepared for the potential consequences of a low response rate to the survey by integrating triangulation of findings from different types of sources in a later stage of the study. By triangulating the findings from the survey with the results from the interviews and desk research, the team was able to address deficiencies in understanding. Nevertheless, during the study, it became clear that the collected data was not compatible. Based on availability and accessibility, different types of information have been gathered from different sources. As mentioned above, this research suffers from the general lack of knowledge on the topic; data obtained from one type of source could often not be verified by another type of source. This has impacted the study team's ability to properly apply triangulation of sources. Throughout the course of the study it became evident that the topic of illicit trade in cultural goods is much like a kaleidoscope; it is built up of many different pieces of different shapes and sizes which are not compatible with one another and which leave gaps. The team realises that it has only been able to reveal a part of the kaleidoscopic picture and that numerous uncertainties remain. Therefore, the triangulation that was initially foreseen has not been applied as envisaged. Despite the fact that triangulation was impossible in the study at hand, it does illustrate the complexity of the topic and, moreover, the dispersion of the available information.

A specific feature of the data collection is an uneven distribution of scoping and in-depth interviews per stakeholder category. While 14 interviews were conducted with police representatives, one was conducted with customs, two with industry (art dealers, collectors, auction houses), nil with public prosecutors and one with academic researchers. All in all, those on the law enforcement side were more engaged in interviews. However, this does not translate into a biased dataset for the following reasons. Among the survey respondents, law enforcement represents a smaller sample in comparison to industry stakeholders and academics. By means of desk research we could collect views of academics and industry, the latter having published their own research on the topic. Furthermore, law enforcement is the stakeholder group most directly involved in combatting illicit trade in cultural goods and most knowledgeable about criminal justice responses, which was the focus of the study. First-hand data and information received from them is reliable and relevant. Throughout, we have sought to obtain a representative geographical coverage of the EU as much as possible, to take into account differing national circumstances and challenges.

Some stakeholder categories (e.g. customs, public prosecutors) were harder to involve in interviews, and we had to rely more on desk research (specifically—on official publications of competent organisations) in attempt to remedy this information gap. Involvement of customs representatives was sought through targeted approaches (where possible, referred by a colleague of the relevant country's police department) and through DG TAXUD, which maintains regular contact with all EU Member State customs agencies. With a few exceptions, these efforts did not yield responses. In the end, the study has not been able to involve customs representatives to the extent intended. As customs officials are

responsible for controlling goods crossing the borders, they are a crucial stakeholder group interfacing with illicit trade. Insufficient involvement of customs therefore has implications for the results shown in this study: an important part of the overall big picture may be missing. Cooperation with, and the work of, customs has been explicitly discussed in the interviews with police officials, however this only partly mitigates the limitation as the police could not provide much information about the relevant work of customs. In many cases, we observed there was insufficient coordination between police and customs, seemingly reinforcing our own experience of the difficulties with involving the relevant customs officials in discussions about the issues of illicit trade in cultural goods.

As a result of the lack of statistics, the conclusions of this study are predominantly supported by qualitative data. The analysis is based on the inputs received through the interviews, survey and desk analyses. Due to the low response to the survey, a major part of the analysis is developed based on the information gathered through interviews and desk analyses. As indicated earlier, the study team has attempted to triangulate the findings from the qualitative data collection methods with the survey. However, this posed a challenge, as information on the topic of illicit trade in cultural goods is widely dispersed and often incompatible. Moreover, the information is not centrally gathered, and the amount and type of knowledge differs per type of source. As a result of the limited amount of available information, the study team has relied more heavily on data gathered through qualitative methods. The team realises the weaknesses of this approach; verifying the information gathered through interviews is a challenge and was not always possible. In addition, the interviewees' subjective perspective might have impacted the ways in which information was presented. Where possible, the study team tried to mitigate this risk by crosschecking information across various interviewees, however, the team realises its significant reliance on qualitative data is a weakness. Nevertheless, given the general lack of data on the topic at hand, the information provided by interviewees can be understood as the most accurate data available. Given the absence of compatible statistics and the general under-prioritisation of the issue, qualitative data is likely the most useful type of information available to work with.

The issue of legality poses an analytical problem. Typically, policy-makers and other stakeholders are interested to know the nature and scale of illicit trade. But the trade does not flow through clearly demarcated licit and illicit channels. Most cultural goods appearing for sale have either no provenance or incomplete provenance, so that often it is not possible for the exact legal status of any one object to be evaluated, or to ascertain without further investigation whether its owner has good title. These objects are often called unprovenanced objects or orphan objects. Another possibility is to describe them as grey objects—objects of uncertain legality.

A related problem is deciding at what point in time a looted or stolen object enters legitimate commerce, which for any one particular object will depend upon its unique trading history. There are objects in circulation on the market that arrived there unlawfully, but they might have been in circulation for decades or even centuries and are now available for lawful transaction. It is not inherently contradictory to propose that the market (also) comprises objects of unlawful origin in lawful circulation.

Unlawful origin, lawful circulation?

Cycladic figurines provide a good example of a body of material that might be simultaneously looted and in seeming lawful circulation. Small, marble Cycladic figurines were made on what are today the Greek Cycladic islands during the early bronze age. The overwhelming majority have been discovered within the borders of present-day Greece (Marthari *et al.* 2016). Greek laws expressing public ownership of antiquities have existed since 1834, hardening in 1899 (Pantos 2000). Most Cycladic figurines in collections outside Greece have provenances dating back to the mid-twentieth century at the earliest, and were almost certainly taken out of Greece illegally after 1899. Many must have been obtained during the well-documented wave of looting that swept through the Cycladic islands in the 1960s and 70s, which is estimated to have destroyed 12,000 early bronze age graves (Gill and Chippindale 1993: 625). In July 1990, Sotheby's offered for sale a large number of Cycladic figurines from the collection of Hans and Marie-Louise Erlenmeyer (Sotheby's 1990). Included in their number were 110 figurine fragments believed to have been discovered on the island of Keros in the 1950s or 60s and acquired soon after by the Erlenmeyers. They were part of a larger assemblage now dubbed the "Keros Hoard" (Sotirakopoulou 2005: 38-44), which was widely believed by the collecting and dealing communities at the time to have been looted (Getz-Gentle 2008). The Greek government failed in its attempt through the British High Court to halt the Sotheby's sale, with the judge recommending that Greece should buy back the material at auction (Cassidy 1990). Greece subsequently withdrew its claim, and wealthy Greek citizens intervened to purchase 81 of the fragments for donation to the Museum of Cycladic Art, where they are now housed. Study of this material has confirmed it was found on Keros (Sotirakopoulou 2005). No one disputes that the Keros Hoard and indeed most Cycladic figurines circulating outside Greece were looted, while at the same time they are traded openly and with impunity because through cross-jurisdictional trade and expired limitation periods they are now lawfully on the market.

The snapshot statistics that can be produced describing the size of the market can therefore only describe the market in its entirety, including grey objects alongside demonstrably legal objects.

2.4 Robustness of the research

2.4.1 Impact of the methodological shortcomings on the findings

As mentioned above, the methodological shortcomings in this study were anticipated or recognised early in the study and, therefore, mitigation measures were put in place. When preparing the research, it was foreseen that triangulation of data from the different sources would be one of the mitigation strategies; in other words, comparing the results of different data collection methodologies as a way to strengthen the confidence in the veracity of data and data analysis. While collecting data, it became apparent that the type of information that could be retrieved through the various data collection activities differed substantially and was often not comparable because it referred to different aspects and elements of the subject-matter. The information obtained through the different data collection methods presented bits and pieces in a kaleidoscope, complementing each other and providing ever fuller picture. However, it was rarely possible to verify the data obtained from one source with the data from another one. As a result, data triangulation could not be applied to our findings. The kaleidoscopic nature of the available information showed how little coherence exists in the recording of data and statistics on the topic of illicit trade in cultural goods. This can be understood as an important conclusion in itself.

The task of obtaining a complete picture of the illicit trade in cultural goods proved equally challenging. Due to low response rates from some stakeholder groups and due to a lack of coherent and comprehensive record-keeping and statistics, information gaps persist, and the puzzle of illicit trade cannot be neatly pieced together. Some research questions can be still answered only in hypotheticals, and, instead of providing a straight answer to them, we advise on methods that can be employed and on steps that need to be taken to enable such answers to be given in the future. Where generalisations are not possible, we indicate whose opinions and information are the source of findings and conclusions. Furthermore, we adjusted the study's focus to understand the reasons for the persistent lack of statistics and, thus, to address the more fundamental issues, which allowed us to formulate more relevant, accurate and effective policy recommendations.

2.4.2 How we ensure the validity of the results

Measuring the size and volume of an illicit market poses a significant challenge to validity, because, as discussed previously, there is often a lack of available statistics. In an effort to overcome this challenge, this research focused on gaining information and insights from the stakeholders that are involved in combatting the trade (e.g. law enforcement and customs).

Given the nature of illicit markets, those involved in illicit activities are often reluctant to share information. Moreover, individuals who are strongly involved in an illicit trade are often difficult to trace, let alone to approach for an interview. On the other hand, those engaged in the combating of the trade are more willing to discuss the developments and the progress made in their field. However, the difficulty in assessing the qualitative data gathered by talking to those fighting the illicit trade is that it is disputable whether the

numbers of confiscations, arrests, and cases of crimes related to cultural goods provide an indication of the size and volume of the trade or that they, instead, give insight into the effectiveness of the involved bodies. This is a well-known issue for crime research. Even if we were to use the statistics as a proxy for law enforcement effectiveness, their validity could be disputed as one is measuring outputs rather than outcomes.

The implication of this observation is that this study has not been able to measure the parameters of the illicit trade directly, but has had to use proxies.

All in all, the obstacles encountered in collecting data from various resources (from non-existence of data to unwillingness to share data, and limited quality of available data) add up to a severe challenge to reliably and comprehensively analysing the parameters of illicit trade in cultural goods. This research works with the information that was (made) available, but the structural issues encountered—and what this says about the state of knowledge about this phenomenon—merit inclusion as a fundamental conclusion in their own right.

3

3. Dimensions of trafficking in cultural goods

In this chapter, several important parameters of the illicit trade in cultural goods are investigated. We start with a brief description of the context in which illicit cultural objects are traded, and elaborate on the object types most commonly found circulating in the illicit trade in cultural goods (Section 3.1). We then proceed with a discussion on the volume of the trade (Section 3.2), which includes a discussion of why this is hard to measure, a review of the numbers that have been obtained over the course of the study through desk research and interviews, and concludes with a suggestion for an approach that may assist in obtaining a tentative estimate of the size of the illicit trade in cultural goods. Subsequently, an analysis of trafficking routes is presented in Section 3.3, with a discussion of operation modes of those involved in the illicit trade in cultural goods covered in Section 3.4.

3.1 Context and actors

First, in the following paragraphs a brief discussion is presented of how the illicit market for antiquities operates. It describes the main actors for various parts of the illicit trade chain: source, transit and destination. It is an excerpt from Chapter 1 of the book 'Trafficking Culture: New Directions in Researching the Global Market in Illicit Antiquities' by Simon Mackenzie, Neil Brodie, and Donna Yates (Routledge, 2019).

> The social construction of the illicit antiquities trade has grown around the basic concepts of supply and demand. Demand for antiquities, mostly but not exclusively, comes from more economically and politically secure states, inspiring a supply of antiquities to be sourced from less secure states, in violation of the law in one or both locations. Buyers of antiquities, then, are willing to pay a price that is high enough for looters and sellers of antiquities to risk a violation of the law. This fair but simplistic construction masks an intricate network of social, political, and economic mechanisms that maintain the antiquities market (including its illicit component) in its current form; govern how various actors negotiate their involvement in the trade; and, underlie the specific decisions made in heritage policy formulation at all levels.
>
> Generally speaking, antiquities 'source countries' tend to be comparatively lower income than antiquities market countries, and many of the most famous seats of ancient culture are among the states with the lowest levels of infrastructure and development. Even within wealthier 'source countries', major archaeological sites, at least those that are most often exploited, tend to be concentrated in economically poorer regions.
>
> At the source end of the antiquities trade there are three main types of actors: looters, local brokers, and facilitators. Looters, as discussed previously, are people who physically extract antiquities from their context within archaeological sites. While still in the source country, looters may sell their antiquities on to local, regional, or national brokers. These are early stage intermediaries who serve to

move the antiquities physically away from their site of looting, consolidating them for further sale. These brokers may 'run' in regions, passing through to collect antiquities that locals have collected for sale. Others might operate antiquities-related or other shop fronts in local markets and are known by locals as reliable buyers. Brokers may also coordinate the targeted looting of sites. Brokers also form a key link in the movement of antiquities abroad, at times organising transport of antiquities to borders and ports, planning the initial or complete route that the object will take to its final market, bribing or otherwise interacting with facilitators, and preparing the potentially false documents that the antiquity requires for movement. Finally, facilitators often play an instrumental role at the source-end of the antiquities market. Here we conceive of these facilitators as actors who neither extract nor physically move looted antiquities, but who, through their actions, allow looters and brokers to operate. This usually takes the form of corruption or negligence on the part of individuals in a place of public trust: archaeological site guards, police, civil servants, elected officials, customs agents, inspectors, regulators, or even at times archaeologists or museum staff.

Between initial extraction from the ground and final sale, looted antiquities pass through a transit phase where they are moved through physical space away from the act of looting and towards an elite and often open market. Actors operating in the transport phase of the trafficking chain are able to identify the different features of state export and import regimes and route illicit commodities through locations with weaker regulation, poor staff training, or corruptible officials. These attractive points of through-movement for antiquities have been referred to in the literature as 'transit ports' or more evocatively 'portals'. Through these portals, illicit items mingle with licit items and often gain paperwork, a false back story **[also known as a false provenance]**, and a degree of legitimacy which will allow the item to be moved to a location with a stricter import/export regime where they gain more paperwork and more legitimacy. Generally speaking, transit phase actors can be divided into three groups: brokers, transporters, and facilitators. These perform related, but usually more complicated and transnational, functions as brokers and facilitators at source level. In the transit phase, brokers play a key role in moving antiquities through transit countries and in providing the pieces with the types of documentation required to sell it on the market [i.e. creation of false provenance documentation]. They also act to obscure the origins of the piece, creating a situation where later stage sellers can plausibly deny knowledge of the illicit origins of the antiquities they buy. While some brokers transport antiquities themselves or arrange for the objects to move unaccompanied via shipping or the post, in some situations we see transporters who serve the functional role of moving antiquities from one location to another with particular focus on moving the objects across international borders and navigating any checks related to import and export. Facilitators during the transit phase mirror and at times include facilitators at the source stage. They, too, can be characterised as individuals who in their official capacity are able to smooth the journey of illicit antiquities from source to market by way of wilful negligence or corruption.

The primary destination market actors for the sale of antiquities are private and largely specialised antiquities dealers who sell directly to public customers and to each other. Many will acquire antiquities that they suspect may have been recently looted and trafficked, and some will knowingly and directly source looted antiquities from looters, traffickers, and intermediaries. As well as dealerships, antiquities are also bought and sold through auction houses, both via large multinational auction corporations and the smaller national or regional houses that may specialise in certain types of art objects including antiquities. They style themselves as a form of intermediary, connecting sellers to buyers via a professional platform, with the understanding that they are not the owners of the antiquities they sell, rather they are working as agents for their consignors. This styling can be misleading: for example, in some circumstances auction houses assume ownership of some antiquities, e.g. due to prior agreement to buy the pieces from their owner should they fail to sell, and eventually resell the objects via their own platform. That said, most antiquities offered by major auction houses have been consigned either by private sellers (see below), or other antiquities dealers. Antiquities are regularly sold via major auction houses accompanied by no ownership history, and little indication of current owner beyond clichés such as 'property of an anonymous Swiss collector'. This makes external audit of the legitimacy and legality of the antiquities offered nearly impossible, and means that the auction houses themselves are able to make decisions about the antiquities consignments they accept with only superficial public scrutiny.

It would be misleading to paint private antiquities collectors with anything but a broad brush. They can range from one-off purchasers who, for whatever reason, decide to buy one antiquity and never engage with the market again, to serious collectors who spend a lifetime amassing what amounts to a private museum; from a child who spends their saved allowance on a common Roman coin to a billionaire who spends millions on a rare Greek bronze statue. They may be motivated by the enchanting form of an antiquity, experiencing it as an art object. They may be drawn to buying due to an interest in the ancient past. They may buy some ancient objects out of a sense of nationalism or spirituality. They may consider an antiquities purchase to be a business investment. They may simply think that a particular antiquity might suit the interior design of their home. Yet nearly all of these buyers share the desire to privately possess ancient objects: to personally own them. Like dealers, private antiquities collectors are often willing to engage in what can be characterised as a grey market with significant risk of engaging in illegality, either by choice or because of a lack of awareness of the illicit nature of the origins of many antiquities on the market.

For a more complete discussion of the structure of the illicit antiquities trade, see Mackenzie, Brodie, and Yates 2019.

Results from the study

The **survey** results demonstrate that the industry for the most part denies that there is illicit trade in cultural goods at all (see Table 4). In the **interviews**, it is often explained that there are individual incidents of illegal transactions, conducted by mistake or by 'bad apples' that are present in every human activity or that only low-end dealers are involved in them. They indicate that the art and antiquities trade is very much built on trust and is small, implying that the market is sufficiently transparent, and fishy sellers of cultural goods would have a hard time getting access to the licit market.

Table 4   Knowledge of illicit trade in cultural goods, various stakeholders surveyed

Respondents were asked they had knowledge of illicit trade in cultural goods in their country. Out of 144 respondents, 81 (56%) indicated 'no'. The distribution between stakeholder categories is unequal.

Stakeholder group	Participation	N° indicating 'no knowledge of illicit trade'	Percentage
Law Enforcement	10	0	**0%**
Legal Practitioners	2	0	**0%**
NGOs	6	0	**0%**
Government	5	1	**20%**
Researchers	29	9	**31%**
IGOs	7	2	**28.6%**
Museums	19	9	**47.4%**
Art Consultants*	6	4	**66.7%**
Dealers	27	20	**74.1%**
Collectors	33	27	**81.8%**

* This category was added post-hoc to the stakeholder categories, as several respondents identified themselves as art consultants

Police and customs officials and public prosecutors surveyed and interviewed for this study overwhelmingly not only recognise illicit trade in cultural goods as a phenomenon, but also indicate that organised crime is involved in its various stages: directing looting, moving objects from dig sites to local markets, international transport, and—to a degree— interfacing with the licit market. Looting can often even take the form of forced labour, especially in war zones. One argument stated to support this view is that the logistical challenge of moving antiquities from source to market is far too great for unorganised groups to overcome. Most of the interviewees also indicate that the organised crime groups that are involved in the transporting of cultural goods are also active in the narcotics and/or arms trade.

Many of the actors in the international art and antiquities trade are wealthy individuals, with considerable social capital. Often dealing firms are family businesses, passed down from one generation to the next as high status professions, sometimes with high-end premises in desirable city locations. Many dealers are respected, well-connected individuals and, as a whole, the art dealing community makes for a relatively influential lobbying group. .

However, there is a **serious level of inscrutability about the antiquities trade**. **Clients' identities are fiercely protected**, and facts and figures on the activities and earnings of dealerships are not normally made available. So as with other types of hard-to-investigate white-collar crime, it is extremely challenging even for the police to find out what is going on behind closed doors in this field. As well as hard-to-investigate, the trade is also hard-to-prosecute, with strategies of plausible deniability being within easy reach if a case should ever proceed to the stage of prosecution. As such, it is only in the rarest cases that matters will proceed to a trial: these are the cases where there is incontrovertible evidence of wrongdoing and a strong chance of getting a conviction. Most other cases never get past the initial investigation stage, and those that do are often settled by repatriations, returns, and other types of voluntary surrender of suspicious object before the issue comes to full-blown litigation.

Recommendation: To break the culture of secrecy and anonymity, the regulation of the art market should be brought more closely in line with AML obligations, which emphasise transparency. The art market should thus be subjected to similar transparency obligations as other high-value markets, such as real estate and cars. Art and antiquities dealers should be obliged to register details of all transactions (e.g. description of the object, value, seller and buyer identities).

Unscrupulous traders also have developed various routines of cover-up in order to protect members against allegations of wrongdoing. Most of these are quite unsophisticated, but it is a marker of this area that, unlike for example tax evasion, schemes to disguise illicit activity in the art market do not have to be complex, so poor is the level of scrutiny of the trade and the low likelihood of any legal action ensuing. So, for example, objects are placed and then bought back through auctions by the same dealers to give them an apparent provenance. Because of the client confidentiality routines in the market even this sort of basic scheme can be hard for onlookers to discern. Buyers may also ask sellers to sign documents 'guaranteeing' they have good title to an object, and these quasi-legal agreements can give dealers who buy looted objects an excuse when subsequently questioned about what due diligence they undertook, and how much if anything they suspected at the time. These, again, are mundane schemes which can be used to thwart the grip that the law may otherwise have on the issue. In general, the burden of proof of wrongdoing is, as ever, with the police and prosecution, and in cases of white-collar crime this burden can be much more difficult to discharge than in routine 'street' crime cases, simply because of the lack of transparency that surrounds antiquities dealers and deals.

Recommendation: To address cover-ups of illicit transactions, a legal definition of acceptable provenance should be developed, preferably at the EU level to ensure cohesion. Cultural goods should show (and/or be checked for) the proof of acceptable provenance.

3.2 Object types and values

In recent years, collection of art and antiquities has become available to all layers of society and is no longer only a 'hobby for the rich'. Based on anecdotal evidence, the 2016 Illicit Trade Report mentions that illicit trade in smaller antiquities may be on the rise and that larger quantities of contraband are moved in fewer shipments. Our research shows that particularly ancient and medieval coins (which qualify as such smaller antiquities) are often seized by law enforcement. Specifically, the snapshot analysis covered in Section 3.2 demonstrates in a preliminary way the widespread use of online auction sites for selling coins and what are likely metal detector finds. The nature and scale of the problem deserves further investigation.

Image 1   Objects recovered by Czech and Romanian police during Operation Budweiser, 2016

Source: Romanian Police

As with the general trade, a large diversity of object types is present in the illicit trade in cultural goods as illustrated by data obtained through seizures. Nevertheless, many **interviewees** (e.g. stakeholders from Italy, the Netherlands, Spain, Switzerland) indicate as a general observation that the bulk of the trade is made up by goods that are small and easy to smuggle, such as jewellery and coins. Coins especially make up a disproportionate share of items seized. This corresponds to findings from **desk research**:

> The World Customs Organisation (WCO) reports that, in 2015, the most often seized cultural goods are antiquities (such as inscriptions, coins, small seals and the like), followed by archives of sound, film and photographs; household items (e.g. carpets, samovars); archaeological items[23] (WCO 2016). While coins and seals dominate the figures, these were seized only in 16 of the 25 countries for which figures are reported. Some countries reported seizures only in one category of items: e.g. Latvia and Hungary—weapons; Jordan, Iran, Egypt and Syria—coins and seals.

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[23] The WCO distinguishes antiquities from archaeological finds, the latter solely refer to objects that have been dug up.

In 2016, 69% of seized items were smaller objects, like antiquities (inscriptions, coins, seals and the like) and historical items (armour, arms) (WCO, 2017). An additional 21% consisted of various drawings, statues, engravings, lithographs and similar types of objects. The rest were books and manuscripts, archaeological findings, furniture and other object types.

In 2015, 44.235 items were seized and of those, 43.340 objects (or ~98 percent) were coins (WCO, 2016). 42.000 of these coins were seized in one operation by Bulgarian customs. Turkish customs also seized 403 unspecified antiquities, and French customs seized 118 lithographs.

These numbers from the WCO corroborate the findings from the interviews that small antiquities and especially coins make up the bulk of the trade. The WCO adds the disclaimer that the sample is extremely small and that validity of any generalisation is limited, while observed trends and patterns do not represent a comprehensive picture. In addition, it should be noted that this assessment is based on the analysis of the goods that interface with law enforcement (i.e. through seizures and confiscations). There is an unknown amount of different (types of) goods in circulation that are not on the authorities' radar, and this selection bias skews the perceptions regarding the presence and the share of different types of cultural goods illicitly trading on the market. Nevertheless, these findings can be substantiated by the **snapshot analysis** reported in Section 3.3.4 and by ethnographic research in Syria (Brodie and Sabrine 2018).

Image 2   Coins recovered by Czech and Romanian police during Operation Budweiser, 2016

Source: Romanian Police

A distinction can be made between the international trade—where items are sourced from their origin to be sold further afield—and (intra)regional markets, where items related to local and regional cultural heritage circulate without being moved out of the region.

As may be expected, **there is regional variation regarding the object types traded, depending on whether a country is a source and/or transit and/or destination country**. For source countries, the specific cultural history determines what types of objects may be trafficked. In Scandinavia and the Baltic countries (e.g. Sweden, Norway) interviewees indicate, objects from the Viking era, such as knives, pottery and ceramics, are in high demand, while in Italy, it is mostly church objects that are at high risk of being stolen (and potentially trafficked). In a number of Eastern European countries (e.g. Estonia, Latvia), illicitly excavated items from World War II are commonly seized by law

enforcement, as well as church objects. Stakeholders from Slovenia and Estonia also specifically mention religious objects being at risk of being stolen and potentially trafficked. How reliable these observations are and how they should be interpreted is difficult to assess. In Italy, for example, the Italian Carabinieri claim that church objects are most at risk of theft and trafficking, while paradoxically official data show that in 2016 the highest proportion of recovered cultural objects comprised antiquities (Carabinieri 2016). Multiple explanations are possible for this contradiction. On the one hand, it is possible that more church objects are stolen, but that they also are harder to recover. On the other hand, it could also be that antiquities used to be more popular to steal, so that there is a 'backlog' of stolen specimens that could be and are being recovered. Yet another possible explanation is that thefts of cultural items from churches and monasteries are more likely to be reported to the police because churches would have a record of them (in a written form or at the very least the memory of the clergy and parishioners). This is not possible for illicitly dug up, and therefore unknown and undocumented, antiquities.

It is important that more information be made available about the types of cultural objects illicitly traded, and cultural goods most at risk, in different countries.

> *Recommendation: Each country should establish a national database of stolen and lost cultural goods and link it to the INTERPOL's database through regular reporting. In the future, interoperability of national and INTERPOL databases should be established. In addition, each country should formulate 'red lists' of national cultural goods at risk of looting and/or illicit trade. All national authorities that come across (illicit trade in) cultural goods should contribute to and consult the aforementioned database, and be trained in using the aforementioned red lists.*

Valuing these objects is difficult, if only because many of them have values that cannot be expressed in monetary terms: their cultural and historical significance, which often depends on the (archaeological or architectural) context in which they are found. When one does try to put a monetary value on an object, the question arises as to what price to consider. These objects often follow several intermediary steps from their origin to their sale at the market, and with each step closer to the market their price increases. Specifically, the price paid to the person who first comes across an object tends to be on the low end, the price at which it is sold on the illicit market may show a substantial mark-up, and the object could fetch an even higher price at an auction on the legal market. Furthermore, the price of an illicit transaction is usually unknown. Estimating what it would have been valued at if it was legally traded then needs to rest on an assumption.

Keeping these difficulties concerning valuation in mind, at the most general level we can observe that as an example, coins tend to be on the cheaper end of the spectrum in terms of monetary value. This may also be a consequence of their relative ubiquity. On the other side of the spectrum, Section 3.6.1 provides a case study on Dacian bracelets that shows that (illicitly traded) ancient jewellery may fetch very high market prices of over €400.000.

Many of the stakeholders (e.g. Bulgaria, Europol, the Netherlands, Spain, Switzerland, UK, WCO) consulted over the course of the study have reported that **there is an increasing amount of fakes circulating on the market.** Some experts interviewed for this study have put the number of fakes at 30% of the total objects in circulation, although no hard evidence was provided to support this speculation.[24] These fakes are often of a very good quality and hard to distinguish from original artefacts. In some cases, fakes are created using real archaeological material from the same era, such as ancient bronze objects being melted to create fake ancient coins. The presence of sophisticated fakes makes it more difficult to estimate the size of the market. It also complicates the work of law enforcement who might not have the required expertise and tools to identify fakes. Additionally, selling fakes is not always a crime. When, after much time and effort is spent on a long law enforcement investigation, analysis reveals that only fakes were seized during an operation, it may be more difficult to obtain a warrant—as well as internal support—for a similar operation the next time. It also negatively impacts the cost-benefit calculation regarding the deployment of time and funds towards investigations into illicit cultural goods.

Image 3   Process of falsification of coins, dismantled by Guardia Civil and Bulgarian Police in Operation SÁRDICA

Source: Guardia Civil

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[24] Other experts give similar or even higher estimates. For example, art lawyer Jean-Jacques Neuer in the interview to Art Info, 18 January 2019, confirms the 30% estimate: https://www.blouinartinfo.com/news/story/3451654/fake-and-forged-works-a-conversation-with-art-lawyer-jean . Dr Maamoun Abdulkarim, then general director of antiquities and museums in Damascus, in the interview to The Independent, 6 September 2016, claims that up to 80% of antiquities smuggled from Syria into Lebanon are fakes. The same article reports that in 2014, according to the Lebanese authorities, the estimate was 30%: https://www.independent.co.uk/news/world/middle-east/syria-isis-civil-war-antiquities-fakes-palmyra-a7228336.html .

Fake cultural objects

The anonymity of the Internet market (see Section 3.4.1), or at least the distancing it creates between sellers and buyers, has diminished the importance of interpersonal relationships for arranging transactions and maintaining long-term trading partnerships. This attenuated social fabric has made it easier to insert fakes into the market for cultural goods, and many online traders are suspected of selling mainly fakes, though such accusations are difficult to prove. In October 2018, for example, in the **joint operation Sardica**, Spanish and Bulgarian police working together broke up a criminal operation smuggling looted objects from Bulgaria to Spain by means of a shipping company, where they were sold on the Internet by gang members using fake user profiles (Europol 2018; Eurojust 2018). Altogether, there were 17 raids on properties and 13 suspects were arrested. About 30,000 objects were seized, together with metal detectors and machine dies and other equipment used to manufacture fake coins. Operation Sardica epitomised how the illicit trade operates in the 2010s—an international group was both looting and faking objects for anonymous sale online (see further Section 3.4.2).

More knowledge about the object types in circulation was also sought through running a **survey** among the different stakeholders. The sixty-three respondents that indicated they had knowledge of illicit trade in cultural goods in their country were asked what types of cultural goods are most at risk of being trafficked (multiple answers were possible). The results can be found in the table below.

Table 5   Types of objects most at risk of being trafficked, N = 63

Type of object	Respondents	% of total respondents
Archaeological objects	56	88
Liturgical objects	27	42
Objects of art	22	34
Objects of ethnographic interest	15	23
Incunabula and manuscripts*	9	14
Other	7	11

* An incunable or incanubulum is an early printed book, especially one printed before 1501.

While archaeological objects are not further specified, these findings are not at odds with the findings from the other data collection activities.

To deepen our understanding, the survey responses were analysed by stakeholder category. In Annex 3, we provide an overview and analysis of the responses provided. In short, it was found that the majority of the respondents indicated that the types of objects being trafficked have changed since 2000. The responses gathered during the validation meeting show that this group generally believes that the types of goods being traded has stayed the same.

3.3 Volume of trade

3.3.1 Measuring illicit trade: impossible at worst, difficult at best

Reliable statistical descriptions of the material volume and monetary value of the illicit trade in antiquities and other cultural goods do not exist.

In the absence of reliable statistics, it is sometimes reported in the media that the illicit trade is worth billions of dollars a year and these figures are then repeated by policy-makers and other stakeholders.

Unfortunately, such figures cannot be confirmed by reliable data. The World Customs Organisation (WCO) states on its website (emphasis added):

> *"Estimates of the size and profitability of black markets in looted, stolen or smuggled works of art are notoriously unreliable, but specialists agree that this is one of the world's biggest illegal enterprises, worth billions of US dollars, which has naturally attracted interest of organised crime" (WCO n.d.).*

Although it should be noted that many specialists interviewed for this study disagree that the illicit trade in cultural goods represents billions of US dollars, this is beside the point. As a large portion of the interviewees underscored, approaching the illicit trade in cultural goods from a purely economic perspective is wrong. Black markets should be addressed not only because of the revenue they generate but predominantly to counter the destructive effect they have on humankind's shared cultural heritage.

The origins of the outlandish billion dollar figures are now obscure, but are usually traced back to Interpol. In 1998, for example, a US government official writing about the illicit trade in cultural goods stated that "according to Interpol, it now ranks with drugs and arms as one of the three most serious illicit international trading activities, valued at approximately $4.5 billion annually" (Kouroupas 1998). The figures' origins have been traced back even further, to an unnamed "European official" claiming at a conference in the 1980s that the trade in looted antiquities was a $6 billion business (Adam 2016). **Interpol has taken pains to distance itself from these figures** by stating on its website:

> *"We do not possess any figures which would enable us to claim that trafficking in cultural property is the third or fourth most common form of trafficking, although this is frequently mentioned at international conferences and in the media.*
>
> *In fact, it is very difficult to gain an exact idea of how many items of cultural property are stolen throughout the world and it is unlikely that there will ever be any accurate statistics. National statistics are often based on the circumstances of the theft (petty theft, theft by breaking and entering or armed robbery), rather than the type of object stolen.*

An enhanced information exchange could assist INTERPOL in determining the importance as well as the trends and patterns of this type of crime". (INTERPOL 2019)

This statement has been on the Interpol website since at least 2005 (Fitz Gibbon 2005: 179) but has been widely ignored.

Trade organisations have produced their own statistics. In 2005, for example, after consultation with Sotheby's, Christie's and 20 private dealers in New York, London, Paris, Geneva, Montreal, Jerusalem and Frankfurt, one study concluded that worldwide the annual value of antiquities sales amounted to $200 million (Kozloff 2005: 187). In 2013, the International Association of Dealers in Ancient Art (IADAA) suggested the annual value of the licit global trade in antiquities, excluding Internet sales, to be €200 million at most (IADAA 2013). **If those statistics were correct, they are not open to independent appraisal because the underlying data have not been published**. They might be undervaluing the market, which has the consequence of diminishing problematic externalities. In turn, as it is seemingly a small problem, external regulation or other policy constraints become less likely.

3.3.2 Obstacles facing reliable measurements

Reliable and comparable statistics are in some sense a prerequisite to organising an effective response to illicit trade in cultural goods. Without an overview of what is found where, it is hard to tailor law enforcement responses to the local needs. Unfortunately, there are obstacles to creating reliable statistics at several different levels. **A vicious circle** can be discerned, simultaneously caused by and resulting from a low prioritisation of the issue: **without a good understanding of the size of the problem, it is difficult to muster adequate resources to fight it. At the same time, without adequate dedicated resources the nature and scale of the problem cannot be properly understood.** (A further elaboration of this vicious circle can be found in Section 4.3. In addition, this has the effect of reducing technology innovation and uptake, as will be presented in Chapter 5.)

Differences in definitions

On the most fundamental level, different national legislation regarding what constitutes cultural goods, how these are protected and what is allowed and prohibited reflect a diverging conception of what is in need of protection. Whereas some countries allow amateurs to use a metal detector to locate and then keep cultural objects (e.g. UK), in others this is considered a crime (e.g. Belgium). While some allow for free trade of cultural goods that have been legally acquired (e.g. Germany), others bar what is recognised as their national heritage from leaving their territory (e.g. Cyprus, Italy, Spain). This divergence means that cultural crimes recorded in country A might well be fully legal in country B, which stands in the way of creating fully comparable statistics at the European level, although it would allow for a country by country analysis to an extent.

Export of cultural property from Spain

To illustrate the argument above, consider the following case from Spain. The law on Spanish Historical Heritage is one of the more restrictive in the EU. Items that are classified as cultural property under this law, even if in private possession, move into the public domain. This means that individual ownership of the cultural property may continue, but the Spanish state will protect its artistic, historical, spiritual value which may indirectly affect the right of ownership. The cultural property becomes inseparable from its surroundings and is non-exportable. To move abroad items that are more than 100 years old or included in the National Heritage General Inventory a special export permit is required that is rarely granted.

Mr. Jaime Botín, a Spanish billionaire founder of Santander bank, wished to export Picasso's painting 'Head of a Young Woman' to Switzerland for some years. He acquired it in 1977 at a London auction and in 2012 sought permission to export it to London (to sell it again). His request was denied. In August 2015, the painting was seized by French customs while on board of one of his yachts, moored off the harbour of the French island of Corsica. Mr. Botín was charged with smuggling of cultural goods, with prosecutors demanding a four-year prison sentence and a €100 million fine. In most other European countries, Botín's export of the painting would be considered legal. This presents a problem for discussions about a coherent European approach to addressing illicit trade in cultural goods (Financial Times 2015; Artnet 2017).

Recommendation: A common definition of (illicit trade in) cultural goods should be introduced in the EU and, ideally, by all countries around the world. The ratification and transposition of the Nicosia Convention (see Section 4.2.1) would be a step in the right direction.

Politically, and related to the point previously made about definitions and legislation, this **issue is not prioritised equally in all EU Member States**. Those Member States that see the combatting of illicit trade in cultural goods as a more salient issue tend to make more funding towards its investigation available for law enforcement units. **The lack of a requirement for Member States to report cases in this crime area to the European Commission in this sense presents a missed opportunity**.[25] At the moment, cases and statistics are only shared on an informal basis with Europol.

On a practical level, **the nature of cultural property crimes means that in the majority of cases there seem to be no victims** (i.e. that this is a victimless crime):

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[25] In the field of culture, the EU has strictly a supporting competence; within the Internal Market it has a shared competence with the Member States; and regarding customs and trade it has exclusive competence. Illicit trade in cultural goods falls somewhere in between these categories. For other cross-border crimes involving illicit exports-imports (e.g. firearms, drugs), such data is gathered by the European Commission's DG HOME and DG TAXUD, and Member States are required to report. This is not the case for cultural goods, however. The European Commission has tasked Europol with conducting analysis of cross-border crimes in the EU under the EU Policy Cycle for serious and organised international crime. See https://www.europol.europa.eu/empact, even if Europol does not have competence to impose reporting obligations.

objects that have been looted from licensed archaeological or illegal dig sites have no 'owner' who will make a declaration to the police, who will be directly affected and who may drive the investigation. Oftentimes, the object's existence was unknown before being dug up and entering illicit market pathways. There are therefore fewer leads for police to work with. Such leads would normally trigger investigations that in turn ensure more information becomes available for statistical purposes as well.

Illicit trade in cultural goods as a 'victimless crime'

This study has encountered various incarnations of the conception of the antiquities trade as a victimless crime. However, the opposite is true. The long-term economic costs of the trade are well documented (Brodie 2010), but less well-known is the tragic cost in human life. Between 2012 and 2017, for example, at least 25 people were reported to have died in Egypt while engaged in illegal digging, often under their own homes (AFP 2012; Ahram Online 2016; Ahram Online 2017a; Al-Masry Al-Youm 2015). One was an eleven-year-old boy (Ahram Online 2017b). On top of this, in 2016, two site guards were killed by unknown assailants during an attack on the archaeological site of Dayr al-Barsha in al-Minya governorate (Sutton 2016).

Operationally, in some cases **statistics on the illicit trade in cultural goods are not compiled simply because it is not required that officials do so**. Statistics are generally a by-product of investigations. In an environment with constrained resources, when a crime area is not prioritised politically, law enforcement will focus on investigating crimes for which they have more (substantial) leads. In addition, in some cases law enforcement IT systems may be outdated and do not allow for an easy retrieval of relevant cases overviews, so that compiling the relevant statistics becomes an arduous task.[26] This is compounded by the lack of a dedicated reporting category (see the note on statistics below).

Recommendation: An agreed-upon definition of illicit trade in cultural goods should be translated into a standardized data collection template for use by relevant national authorities. Systematic data collection according to this template should be made mandatory.

Lack of awareness and expertise on the topic among local law enforcement officials (including border police, customs, and local police) can lead to a failure in detecting trafficking cases, which means the scope of the problem is underestimated. Another consequence is misreporting or mislabelling of cases in police databases, for example when a case of trafficking does not get the additional label 'cultural goods'.[27] As databases are generally not regularly revisited for recoding, such 'pollution' of the databases stands in the way of reliable statistics.

In addition, it is **widely believed** (and indicated by multiple interviewees, for example, from Europol, Italy, the Netherlands and Spain) that **looted archaeological objects and**

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[26] As mentioned by an interviewee from Romania.
[27] As mentioned by interviewees from Estonia, Germany and Norway, among others.

works of art from conflict zones are 'put on ice' for a period: that they are warehoused for several years and then brought to the market only when these conflicts are no longer on the general public's mind (see also the box text in Section 3.4.2). For example, and as a consequence, several police interviewees have indicated they suspect Iraqi and Syrian objects looted in recent conflict will only appear on the market after a few years have passed. **There is no evidence to support this opinion, however, and it should be treated with caution.** However, the snapshot analysis of German-language websites conducted for this study can be considered as an anecdotal evidence confirming the opinion of the interviewees.

Compounding these difficulties, **the trade is generally believed to be badly infiltrated by fakes**, and it is usually not possible to ascertain the authenticity of an object from its catalogue or website description or image.[28] Thus, statistics describing the size of the illicit trade might overestimate its real material volume and monetary value. This might not be a problem if the point of the statistics is to act as a proxy measure of criminal activity, including fraud alongside theft and related offences.

In many cases there is no separate police or customs code for recording crimes related to cultural goods in crime statistics databases.[29] In such situations police cannot record trafficking cultural goods other than under categories such as 'fencing' or 'property crime', and customs cannot specifically record seizures of looted cultural goods at the border as such in their database. In theory, national trade statistics reported using the WCO Harmonized Commodity Description and Coding System, or Harmonized System (HS) could be used to estimate the value and volume of the trade. Unfortunately, in addition to a lack of reporting on the issue by many countries, the reporting categories themselves are too broad as to be analytically useful. The relevant Chapter 9705, for example, gathers information relating to "Collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numismatic interest", thus lumping cultural goods together with objects of natural origin.

Improving statistical reporting
In 2018, the United States amended its Harmonized Tariff Schedule Chapter 9705 to include 9705.00.0075, "Archaeological pieces" of cultural significance that are at least 250 years old and of a kind normally discovered through scientific excavation, clandestine or accidental digging or exploration on land or under water, and 9705.00.0080, "Ethnographic or Ethnological pieces" that are the product of a tribal or nonindustrial society and important to the cultural heritage of a people because of their distinctive characteristics, comparative rarity or their contribution to the knowledge of the origins, development or history of that people. These amendments were introduced specifically to improve statistical analysis of trade data (USA 2018).

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[28] As mentioned by stakeholders from Germany and WCO, among others.
[29] Mentioned by stakeholders from five countries, including Norway, Slovenia, Austria, Czech Republic, the US.

Recommendation: Specific codes for registering offences concerning illicit trade in cultural goods in the systems of customs and police should be created.

Cases that are picked up by law enforcement for further investigation and potential prosecution may be approached from a money laundering angle.[30] Trafficking in cultural goods often occurs alongside money laundering and money laundering has a burden of proof that is easier to satisfy and has higher sanctions. In such cases, the criminal case is likely to be recorded as a money laundering case and not as a case concerning the illicit trade in cultural goods, which also impacts the statistics.

Many countries also lack a central body where all relevant cases of cultural goods trafficking are gathered, from local, regional and national police as well as border police and customs.[31] Without a central point having a complete overview of all relevant cases is challenging, and statistics are partial at best. In addition, the administrative and reporting structure of relevant agencies and stakeholders that could collect statistics varies across countries, which complicates information sharing.[32] **The lack of such a central point also bars the compilation of reliable statistics at EU level.**

Recommendation: The EU should investigate ways to promote central collection of all relevant statistics. Europol could play a supporting role to national law enforcement in this field.

3.3.3 On the numbers that do exist

Desk research shows that figures related to the illicit trafficking of cultural goods are being reported at the international and European level. The WCO compiles annual Illicit Trade Reports (ITR), which has included a dedicated chapter on cultural heritage since 2015 (WCO n.d.). The numbers mentioned in these sections are based on voluntary reporting by countries to the WCO through the Customs Enforcement Network (CEN). **The WCO itself indicates and stresses that these numbers should not be taken as representative, comprehensive or fully reliable** because they represent only a small sample**.** As one of the few publications actually reporting numbers, the ITR figures are still relevant and the table below summarises some key indicators from these reports.

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[30] Mentioned by Romanian, Belgian and UK stakeholders among others.
[31] Mentioned by Romanian, Belgian, Swedish, Slovakian stakeholders amongst others.
[32] Mentioned by a Belgian stakeholder.

Table 6   **WCO Illicit Trade Reports, key findings**

Year	# countries	# cases	# border seizures	# objects seized
2015	13	Unknown	47	44.235 (during Operation Odysseus)*
2016**	13	138	146	8.343
2017	25	140	167	14.753

* 43.340 of these objects were coins, of which 42.000 seized in a single operation

** The 2017 report shows different numbers for 2016 than mentioned in the 2016 report, for example stating that 15 countries reported rather than the 13 mentioned in the 2016 ITR.

The WCO reports showcase some of the challenges experienced when estimating the volume of illicit trade. The rate of reporting is very low: only a small percentage of the WCO membership actually submits figures on relevant cases each year. Because reporting is voluntary, the completeness of the statistics is questionable, with questions remaining as to whether countries report all cases and seizures or only some of them. Reporting is also sporadic across years: while some countries submit figures every year, many do so inconsistently. This makes for statistics that are not comparable over time. It can also be observed that statistics are easily skewed by the type of cultural good being seized, for example one-off seizures of coin hoards balloon the totals.

At the European level, data have also emerged through joint operations of different Member States, with Europol facilitation and coordination. Prominent among these are Operations PANDORA I and II (2016 and 2017), Operation Demetra (2018) and Operation Sardica (2018). These are summarised in Table 7 below.

Table 7   **European law enforcement operations, illicit trade in cultural goods**

Operation	Lead and participating countries	Objects seized	Arrests	Investigations
Colosseum[33] [34]Nov 2011	IT, MT, EL, CY (lead); AT, BE, BG, CZ, EE, DE, HU, LU, RO, NL, SK, ES; non-EU: RU, CH, TR, UA, USA	459 objects, 32 seizures	Not known	Not known
Odysseus Jan – Jun 2014	IT, MT, EL, CY (lead); BE, BG, CZ, DE, ES, LU, HU, NL, AT, RO, SK; non-EU: RU, CH, TR, UA, USA	Not known	Not known	Not known
Pandora I[35] 17 – 23 Nov 2017	CY and ES (lead); AT, BE, BG, HR, DE, EL, IT, MT, NL, PL, PT, RO, UK; non-EU: BA, RS, CH	3.561 works of art and cultural goods; 500 archaeological objects (400 coins)	75	92

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[33] UNESCO (27 April 2013) Prevention and fight against illicit trafficking of Libyan cultural property. Introductory workshop, Tripoli, 27-30 April 2013 - Libya Museum. FINAL REPORT.
[34] News and Society (n.d.) Joint Customs Operation Colosseum.
[35] Europol (23 January 2017) 'Press Release: 3561 artefacts seized in Operation Pandora' [Operation Pandora I].

Operation	Lead and participating countries	Objects seized	Arrests	Investigations
Pandora II[36] 20 – 30 Nov 2017	ES (lead for Europe); 80 other countries	More than 20.000[37] (41.000 worldwide in operation ATHENA, led by Interpol and WCO)	53*	200*
Demetra[38] 4 July 2018	IT (lead); DE, UK, ES	25.000 archaeological goods valued at 40 mEUR during action day; 3.000 archaeological goods (+ 1.000 fakes) valued at 40 mEUR.	23	1
Sardica[39] 23 Oct 2018	ES, BG (lead); also support from Eurojust	30.000 artefacts (genuine or forged); 180.000 EUR cash	13	1

* Notably, UNESCO indicates the operation resulted in 300 investigations and 100 arrests, See https://en.unesco.org/news/unesco-and-european-union-join-forces-lawyers-police-and-customs-officers-curb-illicit.

Source: UNESCO, 2013; News and Society (n.d.); Europol, 2017; 2018a; 2018b; UNESCO, 2018.

During interviews, law enforcement officials involved in these operations stressed that **these figures cannot be extrapolated to produce a representative European picture**. The results from any one operation only represent a snapshot of the illicit trade in cultural goods. The results of the operations are also hard to interpret. Some countries had large seizures, and some had none or only small cases. Seizures represent objects that are suspected of being looted or stolen, but cannot be assumed as such without knowing the outcomes of the related investigations, which may take years. And what does the lack of seizures/confiscations mean? It may mean that there is limited illicit trafficking in cultural goods through a specific country. But it could also mean that there was no trafficking at the time of the operation. Or it could mean that cultural goods are trafficked through that country via a means, mechanism, or route that was not under investigation in this operation. Yet another possibility is that law enforcement officers did not search properly and/or failed to recognise relevant cultural objects due to lack of training or skills. One more possibility is that not enough resources were dedicated to the operation. Another often-heard analysis in cases of large seizures or in which a number of arrests and/or confiscations took place is that illicit trade in cultural goods flourishes in a specific country. However, such conclusions are yet another way to interpret the information.

One thing that is clear is that **only limited information is made available about these operations**. For example, the report on JCO Odysseus which was due to be published in March 2015, has not yet been placed into the public domain.

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[36] Europol (21 February 2018) 'Press Release: Over 41 000 artefacts seized in global operation targeting the illicit trafficking of cultural goods' [Operation Pandora II].

[37] UNESCO (May 2018), Sixth Session of the Subsidiary Committee of the Meeting of States Parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

[38] Europol (4 July 2018) 'Press Release: Hard blow against illegal trafficking of cultural goods' [Operation Demetra].

[39] Europol (5 November 2018) 'Press Release: Spanish and Bulgarian police recover more than 30 000 stolen and forged archaeological goods'.

From the **interviews** and **survey** conducted during this study, it became clear that **statistics related to the illicit traffic in cultural goods are not or are inconsistently tallied in most European countries**. The data that was made available (through the interviews and survey) is summarised in Table 8 below. As can be seen, the data do not cover all EU Member States and do not cover the same elements for those that have shared numbers. Crucially, numbers for four of the most important players, Italy, Spain, France and the UK, are missing. The overview presented below confirms the observation that statistics on this topic are not kept in a consistent and comprehensive manner throughout Europe. Although some interviewees keep personal (statistical) notes, many of the interviewees indicate that they do not keep statistics, and when asked for available numbers they present approximations (what they remember) or average numbers for the last few years. Some interviewees said that statistics were once kept but are not kept any more or that they have started to keep statistics only in the past 1–2 years. **Reasons given why statistics are not kept include that it is not the legal competence of the agency or not required by the organisation or any law.**

Table 8   Assorted numbers, 2017

Country	
Belgium	– 2 police cases – 30 customs cases – Customs cases were linked to money laundering – In addition, there have been some 40 international requests
Bulgaria	– 36.000 objects seized (2018 data)
Czech Republic	– 10 objects seized
Estonia	– Number of confiscated objects is stable. In 2015 and 2016, one item whereas in 2017 and 2018 none.
Germany	– 20 (BW)* police cases – 3 (Bav)** police cases – 25 – 35 customs cases – 137 (BW) objects seized (100 coins, 30 terracotta artefacts, 7 Ancient Egyptian artefacts) – 7.000 (Bav) objects seized (6.500 coins: some experts say 80 are fakes, others say 70% are authentic)
Latvia	– 7 police cases – 1.000 objects seized – 982 (2018 data) – 10 criminal proceedings (2016 data.) – There have been 25 criminal proceedings each year before 2016 – Latvia was a boom in illegal activities in 2014-2015

Country	
Norway	− 20 police cases
Romania	− 10 police cases − 6.043 objects seized (about 12.000 in 2016; before that 4.000 annually) − 30 arrests (since 2000)
Slovenia	− 50 police cases − The number of police cases is more or less steady throughout the years − Since 2014, there have virtually been no cases for Customs. Before 2014 it was 3 to 5 a year − Pre-2012 data was erased when customs merged with tax administration
Sweden	− 1 customs case − 8 objects seized − From 2010-2014, 5 cases of museum thefts and 5 cases of church thefts − Since 2016 only one court case, which was dismissed due to insufficient evidence

*BW is short for Baden-Württemberg

** Bay is short for Bayern

The table above illustrates the **incompatibility of the (type of) statistics that are being recorded**. It shows that in some countries police do record (formally or informally) the amount of cases they deal with on an annual basis, whereas customs do not (or vice versa). In addition, the numbers on the amount of seized objects differ greatly, predominantly as a result of the individual recording of confiscated coins (i.e. some record a hoard of coins as one confiscated item whereas others record each coin individually). Finally, the table provides an indication of the human resources that are tasked with working on the topic of illicit trade in cultural goods in the various countries; often fewer personnel affected the quality of the statistics being recorded. To illustrate, in some countries there is only one person working in this field within law enforcement; these individuals often stopped recording statistics and simply depend on their memory of how many cases they worked in the past.

Recommendation: Compiling statistical data on the offences related to illicit trade in cultural goods should be made mandatory in all EU Member States and encouraged in non-EU countries. All relevant national authorities should contribute to such data collection efforts (police, border police, customs, and others as relevant according to national circumstances). Common criteria for gathering statistical information on illicit trade in cultural goods should be developed and agreed at the EU level.

3.3.4 How a (tentative) estimate can be compiled

In this section, we report the outcomes of the snapshot analyses, covering antiquities from Europe, North Africa and West Asia, and ancient and medieval coins respectively on a number of important, open market fora. It is important to note that these statistics summarise the open European market in cultural goods, not the illicit market.

Antiquities snapshot analysis

Table 9 provides sales statistics for a one-year period (mid-2017 to mid-2018) of physical sales at major European **auction houses**. Price data for auction houses operating through Drouot in Paris are not freely available; Table 10 therefore provides statistics for two major Parisian auction houses, listing mean median-estimate values in place of average prices. Table 10 also lists calculated totals for the two Parisian auction houses, assuming from the Bonhams and Gorny & Mosch figures that 67 per cent of all offered lots sold for a mean price in line with the mean median-estimate value. This means that two-thirds of the lots are assumed to have the average value of the known lots. Sotheby's is the clear market leader in terms of monetary value, but sells fewer lots than its competitors. These statistics describe only major antiquities sales, and there are many other smaller sales at auction houses throughout Europe.

Table 9   Annual sales statistics (mid-2017 to mid-2018) for major auction houses

Country	Company	Number of sales	Total number of lots offered	Total number of lots sold	Percentage lots sold	Average price per lot (EUR)	Total revenue (EUR)
London, UK	Sotheby's	2	191	155	81	68.202	10.571.291
London, UK	Christie's	2	Not known	181		26.069	4.718.456
London, UK	Bonhams	2	393	260	66	7.689	1.391.709
Munich, Germany	Gorny & Mosch	2	1321	913	69	2.444	2.231.372

Table 10   Annual statistics (mid-2017 to mid-2018) for major Parisian auction houses

Country	Company	Number of sales	Total number of lots offered	Calculated number of lots sold	Mean median-estimate per lot (Euros)	Calculated total revenue (Euros)
Paris, France	Millon	2	560	375	2.373	889.875
Paris, France	Pierre Bergé	2	592	397	7.437	2.952.489

Invaluable is an online aggregator site or marketplace hosting single seller electronic auctions of art and other cultural objects. Table 11 lists the number of European auctions listed on Invaluable containing antiquities over a six-month period (1 March 2018 to 1 September 2018). The 13 auctions offered 4.184 lots, of which 2.789 lots (67 per cent) were sold. Table 12 lists sales statistics for seven of those auctions (statistics of the other 6 auctions were not available).

Table 11   **Number of electronic auctions completed on Invaluable containing antiquities over a six-month period (1 March 2018 to 1 September 2018)**

Country	Number of companies	Number of auctions
Belgium	1	1
France	2	2
Spain	2	2
Switzerland	3	4
UK	4	4
Total	**12**	**13**

Table 12   **Sales statistics for seven electronic auctions completed on Invaluable containing antiquities over a six-month period (1 March 2018 to 1 September 2018)**

Country of company	Number of lots offered	Number of lots sold	Percentage lots sold	Average price per lot (Euros)
Belgium	48	47	98	2.282
France	96	56	58	15.344
Spain	80	8	10	1.450
Switzerland	181	162	89	1.097
UK	197	100	51	2.536
UK	144	41	28	1.081
UK	2.849	1.950	68	584
	Total - 3.595	Total - 2.364	Mean - 66	Mean - 1.097

Extrapolation. Assuming from Table 12 an average price per lot of €1.097, then over the six-month period the sale of 2.789 lots in the total of 13 auctions would have realised €3,05 million. Extrapolating over a one-year period, the sale of 5.578 lots would realise a total revenue of €6,1 million.

Catawiki is an online site hosting auctions of cultural objects and other collectibles consigned for sale by sellers. Some auctions are single vendor sales. Others are multiple vendor sales. Table 13 lists the number of sellers consigning material to auctions listed on Catawiki over a three-week period (two weeks in September 2018 and one week in January 2019).

Table 13   **Number of sellers consigning material for sale on Catawiki over a three-week period (September 2018 and January 2019)**

Country	Number of sellers
Austria	4
Belgium	1
France	17
Germany	14
Italy	9
Netherlands	21
Poland	1

Country	Number of sellers
Portugal	1
Spain	8
Switzerland	3
UK	7
Total	**86**

Over the three weeks, 444 lots were offered in five auctions of 'Ancient Jewellery'. In one of the auctions, 46 out of 72 offered lots sold (64 per cent) with an average price of €96.

Extrapolation. Assuming 64 per cent of the 444 offered lots sold (284 lots), with an average price of €96, the total revenue realised over the three-week period would be €27.264. Over a one-year period, the projected sale of 4.923 lots would realise a total revenue of €472.576.

Over the three weeks, 762 lots were offered in eight 'Archaeology' auctions. The sales statistics were recorded for four sales. In total, for the four sales, 160 out of 389 offered lots sold (41 per cent) with an average price of €278.

Extrapolation. Assuming 41 per cent of the 762 offered lots sold (312 lots), with an average price of €278, the total revenue realised over the three-week period would be €260.208. Over a one-year period, the sale of 5.408 lots sold would realise a total revenue of €4,51 million.

In total, it is estimated that in one year Catawiki will sell 10.331 lots of cultural goods with a revenue of about €5 million.

eBay offers an online marketplace for sellers to auction material directly to the public. It maintains individual sites for most European countries. Sales statistics of sold antiquities on the **eBay UK** site were collected for one day (8 April 2018). Table 14 lists the number of sellers active that day, together with their listed country of residence.

Table 14   Number of sellers active on eBay UK on 8 April 2018.

Country	Number of sellers
Austria	1
Bosnia	1
Cyprus	1
France	1
Italy	1
Portugal	1
Serbia	2
UK	41
Total	**49**

Altogether, on that one day, 144 lots sold with an average price of €35 and a total revenue of €4.999.

Extrapolation. Assuming these statistics are representative of daily sales activity, over a one-year period 52.560 lots would be sold realising a total revenue of €1,8 million.

A total of 124 out of 144 of the sold lots (86 per cent) were made of metal. Most of these lots probably comprised metal detector finds. It was also observed though not tabulated that most lots offered in Catawiki 'Ancient Jewellery' sales and many in Catawiki 'Archaeology' sales were also probably metal detector finds. These figures and observations demonstrate in a preliminary way the widespread use of online auction sites for selling metal detector finds. The nature and scale of the problem deserves further investigation.

Trocadero is an online aggregator site or marketplace hosting single-company sales of art and other cultural objects direct to the public. Surprisingly perhaps, when inspected in September, there appeared to be only four European vendors offering antiquities. Between them, they were offering 1.101 lots for sale. Three of the vendors were also active on eBay and Catawiki. These have not been included in the further analysis, to avoid pollution of the numbers through double-counting.

Analysis of the data

Table 15 sets out the actual and extrapolated annual sales statistics for the companies studied, demonstrating the progression from the 'high-end' high-value, low-volume marketing strategy of Sotheby's down to the 'low-end' low-value, high-volume marketing of online marketplaces.

Table 15   Actual and extrapolated annual sales statistics for the companies studied

Company	Number of lots sold annually	Total annual revenue (Euros)
Sotheby's	155	10,6 million
Christie's	181	4,7 million
Bonhams	260	1,4 million
Gorny & Mosch	913	2,2 million
Invaluable	5.578	6,1 million
Catawiki	10.331	5 million
eBay UK	52.560	1,8 million
Total	**69.978**	**31,8 million**

These statistics do not include data from dealers and other companies selling directly to the public from physical premises and/or their own websites. In the United Kingdom, for example, the membership registers of the Antiquities Dealers Association and the International Association of Dealers in Ancient Art list 19 companies not recognised during this study to be selling through Invaluable, Catawiki or eBay. The importance of this 'private' or 'invisible' market for transacting high-value objects has already been remarked upon.

The high number of antiquities being sold on eBay UK stands out, and there will be more antiquities on other national eBay sites. A certain, and perhaps large, proportion of the cultural objects available for sale on these sites are likely to be fake. Further, antiquities

can be found for sale in limited numbers on other Internet marketplace sites such as Etsy. It must also be remembered that a sold 'lot' might contain more than one antiquity, so the total number of antiquities being sold will be higher than the total number of lots sold.

The size of the invisible market is difficult to estimate, though comprising mainly high-value objects its contribution to overall monetary value is likely to be much larger than its contribution to material volume. Some indicators of the types of object being traded invisibly are available. In November 2013, for example, UK customs seized a Roman statue illegally-exported from Libya, which the British Museum valued in the region of €2 million (HMRC 2015). In July 2017, the Metropolitan Museum of Art in New York paid a Parisian dealer €3,5 million for an Ancient Egyptian gilded coffin, which was subsequently shown to have been stolen (Small 2019). These prices are far higher than the average price per lot of €10.571 recorded for Sotheby's. In fact, the highest priced lot sold by Sotheby's during the period assessed for this report was €1,7 million. Thus, it would only take the sale of ten or twenty objects of similar price to the Libyan and Egyptian examples to double the €31,8 million annual sales revenue reported in Table 14.

> **Estimation of the volume and monetary value**
> Given these observations and reservations, it seems reasonable to propose that the true material volume and monetary value of the antiquities trade in Europe will be in the region of twice to ten times as much as the figures totalled in Table 14: a material volume of between 140.000 to 700.000 objects transacted annually, with a total monetary value of between €64 million to €318 million. These figures are obviously imprecise and hedged with uncertainty, but they have, if nothing else, a firmer evidential base than anything else that has previously been published. They are not altogether contradictory to the €200 million figure for global trade in antiquities (excluding the Internet) proposed by the IADAA in 2013.

Ancient and medieval coins snapshot analysis

Sixbid is an online aggregator site or marketplace hosting single seller electronic auctions of coins, medals and banknotes. Table 16 lists the number of auctions containing ancient coins over a six-month period (14 February 2018 to 13 August 2018). Table 17 lists the numbers of lots offered and sold in 44 auctions over a one-month period (June 2018). Table 18 presents the sales statistics of a sub-sample of 13 auctions drawn from the larger sample of 44 auctions held in June.

Table 16   The number of auctions on Sixbid containing ancient coins held over a six-month period (14 February 2018 to 13 August 2018)

Country	Number of dealers	Number of sales
Austria	3	12
Belgium	3	3
Czech Republic	2	7
France	4	43
Germany	22	70
Hungary	1	2
Italy	6	20

Country	Number of dealers	Number of sales
Monaco	1	2
Netherlands	2	3
Norway	1	1
Poland	3	4
Portugal	1	1
San Marino	2	3
Spain	6	26
Switzerland	6	13
UK	9	45
Total	**72**	**255**

Table 17   The number of auctions containing ancient coins held over a one-month period (June 2018), showing the total numbers of lots offered and lots sold

Number of vendors	Number of auctions	Number of lots offered	Number of lots sold	% lots sold
33	44	14.719	11.512	78

Table 18   Sales statistics of 13 auctions containing ancient coins held in June 2018

Number of vendors	Number of auctions	Number of lots offered	Number of lots sold	Average price (Euros)
11	13	6.812	5.232	384

Extrapolation. Assuming from Table 18 a mean price per sold lot of €384, then over the one-month period June 2018 the sale of 11.512 lots as recorded in Table 17 would have realised €4,42 million. Extrapolating over a one-year period, the sale of 138.144 lots would realise a total revenue of €53 million.

VCoins is an online aggregator site or marketplace hosting single vendor sales of coins and related objects direct to the public. Table 19 shows the number of European vendors active on VCoins one day in September 2018, together with the number of lots being offered according to country of residence. The high French total is due to one vendor offering 9.054 lots. Table 20 shows the sales statistics for a sample of 14 out of the total 48 vendors.

Table 19   Vendors active on VCoins one day in September 2018

Country of residence	Number of dealers	Number of lots offered
Austria	4	1.025
Belgium	2	2.218
France	3	9.667
Germany	9	3.081
Hungary	1	1.032
Italy	2	539
Netherlands	7	2.496

Country of residence	Number of dealers	Number of lots offered
Spain	5	2.078
Sweden	1	208
Switzerland	2	298
United Kingdom	12	5.676
Total	**48**	**28.318**

Table 20   Sales statistics for 14 vendors active on VCoins one day in September 2018

Country	Number of lots offered	Mean price per lot offered (Euros)	Total value of stock (Euros)
Belgium	266	218	58.020
Germany	414	164	67.920
Germany	278	255	70.812
Germany	711	313	222.535
Germany	158	156	24.565
Netherlands	318	124	39.513
Netherlands	113	175	19.816
Spain	332	120	39.904
Spain	644	257	165.732
Spain	321	116	37.360
United Kingdom	151	792	119.627
United Kingdom	564	402	226.486
United Kingdom	225	320	71.912
United Kingdom	1.258	197	247.580
Total	**5.753**	**245**	**1.411.782**

Extrapolation. The total stock on offer by 48 dealers comprised 28.318 lots. Assuming an average price per lot of €245, then the total value of stock for 48 dealers on one day was €6,9 million.

It must be emphasised that these statistics describe material being offered for sale, not material sold. Many of the vendors active on VCoins were also selling on Sixbid or eBay.

Sales statistics of sold ancient coins on the **eBay UK, France and Germany** sites were collected for one day (25 August 2018). Table 21 provides sales statistics for all sellers active that day across all three sites. Many of the sellers listed coins on more than one site. Table 22 lists the number of sellers active on each eBay site and their countries of residence. Table 23 provides sales statistics for the individual country sites. The total statistics in Table 23 are apparently higher than those in Table 21 because of duplicate sales.

Table 21   Sales statistics for sellers active across eBay UK, France and Germany sites on one day (25 August 2018)

Country of residence	Number of sellers	Number of lots sold	Mean price (EUR)	Total revenue (EUR)
Austria	2	6	11	63
Belgium	1	5	13	67
Bulgaria	1	6	16	98
Cyprus	2	25	21	525
France	17	43	15	663
Germany	24	195	16	3.164
Italy	3	9	6	50
Slovakia	1	5	84	422
Spain	5	22	9	197
Switzerland	1	1	38	38
United Kingdom	44	122	27	3.236
Total	**101**	**439**	**19**	**8.523**

Table 22   Numbers of sellers active on national eBay sites on one day (25 August 2018)

Country of sale	Number of sellers	Countries of residence
eBay France	70	Belgium (1), France (17), Germany (10), Italy (3), Spain (3), United Kingdom (36).
eBay Germany	25	Austria (2), Germany (22), Spain (1).
eBay United Kingdom	60	Bulgaria (1), Cyprus (2), Germany (14), Spain (2), Slovakia (1), Switzerland (1), United Kingdom (39).

Table 23   Sales statistics for individual country eBay sites on one day (25 August 2018)

Country of sale	Number of lots sold	Mean price (EUR)	Total revenue (EUR)
eBay France	253	21	5.377
eBay Germany	145	20	2.851
eBay United Kingdom	309	22	6.694
Total	**707**		**14.922**

Extrapolation. Assuming these statistics are representative of daily sales activity, over a one-year period 160.235 lots would be sold realising a total revenue of €3,1 million.

Analysis of the data

The combined statistics for Sixbid and eBay suggest that 298.379 lots of ancient coins are being sold annually, realising a total revenue of €56,1 million. As is the case for antiquities, the real totals are likely to be higher, though the existence or size of a 'private' or 'invisible' market for coins has not been reported and so its size or significance remains unknown. The fact that the basic statistics are broadly comparable to those describing antiquities emphasises the importance of the coin market and its potentially damaging action.

Conclusions on snapshot analysis

European vendors are selling annually in the region of 140.000 to 700.000 antiquities from Europe, North Africa and West Asia, with a total monetary value in the region of €64 million to €318 million. European vendors are also selling annually a minimum of 298.379 ancient and medieval coins, valued at more than €56 million.

The data sources and methodologies used to produce these statistics are transparent and open to evaluation and criticism. Further refinement would be possible by the application of more intensive methodologies. These annual statistics will be increased by the considerable number of antiquities and other cultural objects sold in cultural categories such Islamic Art, Asian Art or Primitive Art, or other material categories such as books and manuscripts.

Possible way forward

The problem remains, however, that measuring the size of the market is not the same thing as measuring the volume or value of recent or ongoing illicit trade. The general absence of provenance means that it is not possible to distinguish between objects that entered circulation only recently and objects that have been out of their countries of origin for decades or more. An alternative approach is to utilise satellite or other visual imagery of looted archaeological sites that have in the past been legally and professionally excavated. The legal and professional excavation gives insights into the potential 'yield per m2' of the excavation site, while visual imagery can be used to estimate the number of m2 that has been looted. By combining these observations, one can arrive at an estimate of the total value (and volume) of the trade in looted objects. This method becomes more feasible as the number of Low Earth Orbit satellites increases, as these offer the potential to get more up-to-date and granular photographs of specific geographical areas (The Economist, 6 December 2018). This method has already been applied: one study of a looted Jordanian early bronze age cemetery, for example, estimated that between 9.366 and 28.084 pots had been removed by looting, which would have sold in London for between £1.142.652 and £3.426.248 (Brodie and Contreras 2012).

The latter method faces limitations of its own, most importantly that its applicability to European sites might be limited (as there is less information on types of objects in any particular excavation site and what their value would be, compared to e.g. Peruvian or Egyptian necropolises) and that such an approach does not tell us what finds its way to the (European) market and how.

3.4   Trafficking routes

3.4.1 Challenges in mapping trafficking routes

The description of trafficking routes for illicit trade in cultural goods is a challenging exercise because it is marked by clichés, complexities, and unknowns. By definition, illicit trafficking in cultural goods is clandestine and concealed, so the routes are largely unknown to anyone except for the traffickers themselves. **The interception of a cultural good represents only a snapshot of where the object is at a specific moment in time**. Even after a thorough police or customs investigation it is often impossible to establish the object's (complete) trafficking route, and the country of origin of a cultural object cannot always be established unambiguously. In addition, some interviewees indicated that there is no correlation between countries of origin and trafficking routes on the one hand and the type of objects on the other. They indicated different types of objects are trafficked via the same routes; perpetrators tend to use the same route regardless of the objects trafficked. On the other hand, there are indications that certain routes, secured with higher bribes, tend to be used for high-value goods. Traffickers would want to avoid the risk of high volumes of lower value goods to compromise the route.

At the same time, it is common knowledge that, as with any trade, the illicit trade in cultural goods follows the law of supply and demand. Illicit cultural goods are transported to those countries where there is a market for them. Obviously, the illicit trade in cultural goods must conform to certain logistical realities and many trafficking pathways rely on established transport corridors, networks and hubs, such as through certain airports, ports, railways, roads and border-crossing points. Therefore, most of the large transport hubs within Europe (e.g. Frankfurt airport, Rotterdam port) also serve as transit nodes for traffickers of cultural goods.

The main barrier to mapping the trafficking routes of cultural goods is the variety of determinant factors that add complexity to what would otherwise be a straightforward itinerary from country A to country B. Illicitly traded cultural goods are more likely to originate in countries where it is relatively easy to access such objects. Warzones are an obvious example: where the state cannot effectively control its territory and protect its cultural resources and also cannot provide for its citizens, looting of cultural goods is likely to start. Countries that have a lot of poorly monitored archaeological sites, museums and other culturally or historically significant buildings (e.g. churches and temples) are also likely to experience illegal excavations and thefts of cultural goods, which introduce new illicit goods to the market.

The trafficking pathways of illicit cultural goods have been described in terms of "source", "transit", and "destination market", with certain countries being associated with each trafficking phase, though individual countries can be the site of all phases of the trafficking of cultural goods. The term "**source country**" refers to the location where the cultural goods originate, for example in the ground from an archaeological site or from a church. Local law within the source country in many circumstances determines who is the owner of the cultural good as well as if the cultural good can be considered "looted", "illicit", or "illegal". A country may at the same time occupy various positions in the trafficking chain:

it can be a source country for certain types of antiquities or archaeological objects, while also being a transit and/or destination country for cultural goods from other countries.

A transit country is the one that illicit cultural goods are trafficked through on the way to the final market destination. It is unclear how long illicitly traded goods may stay in such countries. Almost any country can be used for transit due to its advantageous geographic location in relation to a particular trafficking route. Even if a country is not well-placed geographically, it can still be used for transit if its import-export legislation is lax, the enforcement of said legislation is weak and/or if the country has freeports. Familiar language and culture as well as diaspora and familial ties may also play a role in the selection of countries, which traffickers use for transit of illicit cultural goods. This category of countries is indispensable for the traffickers as they serve to create a physical distance from the point of initial theft and may be used to transfer title through multiple transactions across jurisdictions and to construct a false provenance for the illicit cultural goods and, thus, legalise them. A 'cleaned' cultural object can then be introduced to the country of final destination legally and sold openly on a legal market. In attempt to 'launder' 'hot' illicit cultural goods (e.g. those coming from warzones or well-known objects), traffickers may move them around the globe. Illicit cultural goods are also moved to complicate or hinder police investigations. Such 'hot' cultural goods may disappear from the public eye for prolonged periods of time (sometimes years) before they are intercepted by law enforcement or resurface in private collections. Several police investigators have shared such examples.

Free ports

Free ports are warehouses located in free zones. Customs' presence is not mandatory in free zones. Any non-EU goods can be introduced there without presentation and declaration to customs, free of import/ export duties and taxes (Articles 158 and 245 of the European Union Customs Code). The goods in free zones can be stored, moved, used, processed, consumed or exported to their final destination as well as become subject of economic transactions.

In November 2017, there were 82 free zones[40] in the EU, most of them in Croatia (11), followed by Lithuania (10), the Czech Republic (8), Spain and Poland (7), Romania and Bulgaria (6), Greece and Latvia (4), Estonia (3) and Finland, France, Germany and Italy (2). Nine countries – Cyprus, Denmark, Hungary, Ireland, Luxembourg, Malta, Portugal, Slovenia and the United Kingdom – had only one free zone. Austria, Belgium, the Netherlands, Slovakia and Sweden had none.[41]

Originally, free ports were intended for a temporary storage of goods in transit, but have lately become used for long-term or even permanent storage of valuables, in

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[40] The list of free zones notified to the European Commission can be found at:
https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/customs/procedural_aspects/imports/free_zones/list_freezones.pdf .
[41] It shall be noted that customs warehouses offer the same advantages as free ports (e.g. no duties or taxes need to be paid, secrecy and anonymity are guaranteed). Customs warehouses can be located anywhere (i.e. also outside of free zones) and can be private or public. For storage of goods in a private warehouse, a customs authorisation is required. No authorisation is necessary for public customs warehouses. In the EU, there are far more customs warehouses than free ports.

particular cultural goods. However, recently a new generation of free ports has appeared designed to cater for the needs of art and antiquities trade. Numerous reports describe free ports as luxury "über vaults" (Maecenas 2017), "modernist museums […], with gigantic metal and concrete sculptures in the lobby, spacious showrooms, and fancy meeting rooms" (Jovic 2018) and "the greatest museums no one can see" (director of the Louvre Jean-Luc Martinez, in Bowley and Carvajal 2016). Free ports serve as a one-stop-shop for art dealers and collectors, located conveniently at transports nodes and offering all-round amenities (e.g. climate-controlled rooms, showrooms, office space) and services (e.g. insurances, art advice, restoration, conservation).[42]

Free ports offer high security and discretion and allow transactions to occur without attracting attention of authorities. Only the value of goods entering a free port needs to be declared via a self-declaration, which is usually not checked (Korver 2018). The goods can be traded in the safety of free ports without ever having been taxed. The (change of) ownership of cultural goods is concealed because free ports are under no obligation of identifying the ultimate beneficiary (i.e. actual owner) and accept aliases or nominees, like offshore firms, trusts, foundations, lawyers or a combination of these. The lack of transparency and control is beneficial for trafficking in illicit cultural goods and for accompanying crimes, such as terrorism financing, money laundering and tax evasion (FATF 2010; TRACFIN 2018; European Parliament 2019b).

After a number of high-profile scandals (e.g. the Yves Bouvier affair[43], the dispute over a Nazi-pillaged Modigliani painting[44]), Switzerland and Luxembourg came under an avalanche of critic and introduced changes to their free port legislation. In 2016, Switzerland introduced new broad anti-money laundering law that, among other things, increases transparency of free ports (Korver 2018; Renold 2018). Free port managers must receive information on the identity of the free port tenants, an inventory of all cultural goods held in warehouses, their value, their certificate of origin and the identity of the person entitled to dispose of them.

Luxembourg unilaterally transposed some elements of the Fifth Anti-Money Laundering Directive[45] five years ahead of time, in 2015 (the transposition for the Member States is due in 2020) following a national risk assessment related to its free port. It is the only country where free port operators are under the same anti-

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[42] Lawyers Wierbicki and Rottermund (2016) advise buyers and sellers of cultural goods to choose free ports and customs warehouses for their transactions based on five criteria: "(1) flexibility in movement; (2) privacy with respect to disclosure requirements; (3) the amenities and services offered; (4) security and access; and (5) the current location of the art and the selection of a convenient travel location to mitigate risk of loss or damage".

[43] For the long and still ongoing so-called Yves Bouvier affair please see an overview by Boicova-Wynants, M., (2019) A brief insight into the Rybolovlev-Bouvier "legal thriller": https://artlaw.club/en/cases/a-brief-insight-into-the-rybolovlev-bouvier-legal-thriller or read a detailed account by Bregman, A., (2019) The Bouvier Affair: A True Story.

[44] See the history and the account of the legal battle over the Modigliani's "Seated Man with a Cane" in Arthive (2018) A new twist in a legal battle over the Modigliani's Seated Man with a Cane: https://arthive.com/news/3349~A_new_twist_in_a_legal_battle_over_the_Modiglianis_Seated_Man_with_a_Cane .

[45] Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, OJ L 156 of 19.6.2018.

money laundering obligations as financial sector (Dauvergne 2018; Korver 2018). Free port operators are obliged to identify the beneficial owner of stored goods without the use of offshore companies, trusts, lawyers, or galleries to shield ownership. All goods, independently of their value, are checked by the customs upon entering and leaving the free ports (for a detailed analysis of the regime see Korver 2018).

It shall be noted that **customs warehouses** (also called **bonded warehouses**) offer the same advantages as free ports (e.g. no duties or taxes need to be paid, secrecy and anonymity are guaranteed). Customs warehouses can be located anywhere (i.e. also outside of free zones) and can be private or public. For storage of goods in a private warehouse, a customs authorisation is required. No authorisation is necessary for public customs warehouses. In the EU, there are far more customs warehouses than free ports.

Countries that are the end destination for illicit cultural goods (i.e. where the end buyer is) are typically those with a large art and antiquities market. Legislation in some countries is more encouraging for imports of and the trade in cultural goods, creating the necessary environment for both the legal and the illegal market. Indeed, within market countries, the market for all cultural goods can be described as a "grey market", with legal, illegal, and illicit cultural goods all traded by the same dealers and platforms, bought by the same consumers, and presented as indistinguishable from each other on the market. This situation will be somewhat rectified within the EU once the new Regulation on the introduction and the import of cultural goods enters into force.

When decisive factors change, so do the trafficking routes. For instance, Switzerland was known in the past as one of the main transit hubs for cultural goods in Europe. However, trafficking through Switzerland diminished after 2005 when a more restrictive law regarding cultural property entered into force[46], which introduced increased monitoring and more systematic controls of Swiss freeports. Trafficking routes may change drastically within a short period of time and/or only for a short period of time, for example, in response to more rigorous border controls or a police operation.

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[46] Swiss Federal Act on the International Transfer of Cultural Property (Bundesgesetz über den internationalen Kulturgütertransfer) entered into force on 1 June 2005. The text is available at: https://www.admin.ch/opc/de/classified-compilation/20001408/index.html .

This all makes it almost impossible to draft a map of contemporary trafficking routes for cultural goods. Such a map would be incomplete: in many cases we can only guess the exact origin or destination of cultural goods; in other cases, we would not know the trafficking itinerary; and the routes of many yet undiscovered items would not be reflected. Such a map would also be too complex, because trafficking routes would be different for different objects and for different time periods. In Section 3.6 we provide selected case studies of the trafficking as an illustration. These maps will quickly be rendered obsolete by any regulatory or logistical change at any point on the smuggling chain. **While definitive trafficking routes can—by their nature—not be established, the role of critical logistical hubs as gateways into Europe should be acknowledged**.

Recommendation: Considering the importance of logistical hubs, national authorities at the logistical hubs should be trained to raise their awareness of and knowledge how to recognise the illicit trade in cultural goods. In addition, EU Member States should implement the Fifth AML Directive in such way that it applies to free ports, which would result in increased monitoring and systematic controls of activity there.

3.4.2 What we do know about the trafficking routes

We first discuss findings from **desk research**. One indicator for trafficking routes is whether there have been border seizures of cultural goods in a specific country. Such an indicator is an imperfect proxy for the reasons elaborated above but nevertheless shows that trafficking routes do cross these countries. The WCO Illicit Trade Reports (ITR) for 2015–2017 contain some relevant data on this.

The 2015 ITR shows that most cultural goods seized in Europe came from Ukraine, Hungary and Serbia, and most seized goods were destined for Russia. In 2016, most seized goods came from Russia, Ukraine and Hungary. Poland and Switzerland were mainly destination countries. Serbia was a transit country. The trafficking routes in 2016 were reported to be the most frequent between Eastern and Central Europe, the most notable example being illicit exports from Ukraine to Russia, USA, Germany, and Poland. The available data for 2016 suggests that Eastern Europe (Poland, Hungary), western Russia (Moscow and St Petersburg) and Ukraine (Odessa) were primary hubs for illicit trade in cultural goods. The trade in the Middle East was mainly within the Middle Eastern region.

In 2017 import-export patterns between countries were less pronounced and the results more mixed. Ukraine was mainly a source country. Poland, Belarus, Switzerland, and Turkey were mainly destination countries. Russia and Spain were both source and destination countries. Russia and Serbia had also cases of transit. On the level of regions, the most intense trafficking was between CIS and Eastern and Central Europe (almost 2/3 of all seizure cases). Cultural goods moved from CIS to Central and Eastern Europe, and —in a slightly smaller quantities—in the opposite direction. From Western Europe they moved mainly to CIS. Cultural goods were also trafficked between Central and Eastern Europe and Western Europe.

The data for 2015–2017 ITRs came from an extremely small pool of sources: only 13 countries (out of 183 WCO member states) reported in 2015 and 2016 each and 25 countries reported in 2017. Not all reporting countries were European. There is also no continuity in the reporting countries between these ITRs. A large amount of reported cases (more than half in 2015–2016) came from Russia and Ukraine, jointly, which partially explains the focus on Eastern and Central Europe. However, due to the underdeveloped reporting and lack of data from Western Europe no conclusion can be made whether Central and Eastern Europe is a hub of illicit activities. Similarly, no conclusion can be made about Europe as a whole and its role in the global trade/ trafficking routes of cultural goods. If anything, the ITRs demonstrate the complexity, variety and changeability of the trafficking routes and strengthen the case for the necessity of statistics and data sharing on illicit trade in cultural goods.

The picture of trafficking routes emerging from the **interviews** with stakeholders is diverse, and in most cases no clear import-export patterns can be identified. The main reasons for this are:

1. **lack of statistics**: all interview partners provide information based on their experience, which vary significantly based on how long they have been fighting illicit trade in cultural goods, how many cases they have come across in their career and what type of cases they were;

2. **small size of samples**: typically, the interview partners came across a relatively low number of cases of illicit trade;

3. **national/ local perspective**: most interview partners represent national law enforcement, so they describe illicit trade in cultural goods as they see it happening in their country only; some interview partners could provide information relevant only to the division they work in, while there are more police divisions in the country.

Keeping in mind these caveats, the following observations based on the interview data can be made. **Most countries perform mixed 'roles' in trafficking routes, being both source and transit and, in some cases, also destination countries.** A particularly strong example for such 'multifunctioning' is Germany: it was mentioned by interviewees almost equal number of times in each role (i.e. as a source, transit and destination country). This seems to be due to Germany's geographic location in the middle of Europe on the crossroads of routes between Eastern and Western, Southern and Northern Europe and due to its major international transport nodes (e.g. Frankfurt airport, Hamburg port). Munich was highlighted as an important 'hub' within Germany, where a large Turkish diaspora enables connections to be made between sellers from the Middle East and buyers in the West.

Italy is by far the country most frequently mentioned by the interviewees as a source country in the EU. At the same time, the interview results indicate that Southern European countries (Bulgaria, Cyprus, Italy, Greece, Romania, Spain) tend to be source countries (i.e. illicitly traded goods originate from them) to the higher degrees than other European countries. The reasons for this are not entirely clear; however, weaker legal or physical protection or possibility of protection of archaeological sites, churches etc. is a factor, either due to the large amount of such sites and lack of resources to guard them

or, in case of Cyprus, military conflict in the past. Among EU neighbours, Turkey was frequently mentioned as a source country.

Middle Eastern countries (e.g. Eqypt, Iran, Syria, Turkey, Libya, Lebanon, Iraq) were mentioned only a few times, mainly with indication that only a few cases encountered by the interviewee pertained to goods that originated in these countries. Most interviewees could not exclude or confirm that there are cultural goods from these countries currently on the illicit market because they personally have not come across such cases. Interviewees also explained that Middle Eastern items are 'too hot' to be handled right now (in case of Iraq and Syria—due to the UNSC Resolutions and respective EU Regulations) and are probably stored away and will resurface in several years or decades from now. This is a pattern that was observed, for example, with Cypriot objects looted in the 1970s.

Warehousing of 'hot' objects

It is widely believed (and indicated by multiple interviewees) that looted cultural objects from conflict zones are 'put on ice' for a period, being brought to the (illicit) market only when these conflicts are no longer on the general public's mind. As a consequence, several interviewees have indicated that they suspect, for example, Iraqi and Syrian objects to appear in a few decades time. While this conjecture might be true, there is no evidence at the present time to support it, and other possibilities should be considered. The Hobby Lobby case in the United States, for example, shows that material might simply move slowly through the market, and remain hidden from view after a private purchase. In 2010, the Hobby Lobby collection bought 3.450 cuneiform objects from Israeli and Emirati dealers in the United Arab Emirates, but it was not until 2017 that a US Customs investigation, which started in 2011, publicised the purchase (New York 2017). The 450 tablets included in the purchase are thought to have been looted in Iraq sometime between 2003 and 2009 (Jarus 2018). The Spanish investigation into Jaume Bagot reported in 2018 revealed he had bought objects only a few months after they had been looted in Libya (Lamarca and Parga 2018). Without the engagement of law enforcement agencies, it is quite possible that nothing would be known of these purchases. Perhaps there are many more similar examples currently under investigation or that have evaded investigation altogether. The trade of coins and other small objects on the Internet is also likely to be rapid, though not reported. There are multiple media reports across Europe of police raiding the premises of people selling unlawfully-acquired material on the Internet. Claims of warehousing should not be dismissed outright, but should be treated with a certain degree of caution.

Belgium, Netherlands and the UK are clear destination countries. These countries have large art and antiquities markets (especially the UK), often well organised within a trade association, and less restrictive legislation on trade in cultural goods. Lax legislation allows for cultural goods to be sold without proper provenance quite easily. Also, none of the countries has ratified the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects[47], and the UK ratified the 1954 Convention for the Protection of Cultural

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[47] See the list of the State Parties to the Convention: https://www.unidroit.org/status-cp .

Property in the Event of Armed Conflict with two Protocols only in 2017[48]. Belgium ratified the 1970 UNESCO Convention in 2009, but has not yet adopted any law of transposition (Cornu 2017). Among third countries, the USA (cited by almost by every interviewee) and the United Arab Emirates were mentioned most frequently as popular destinations for illicit cultural goods.

Most interviewees also stated that **the trafficking routes of illicit cultural goods are not special: traffickers of cultural goods use the same routes as traffickers of other illicit goods** (e.g. firearms, drugs).

Only some interviewees could discuss the developments in trafficking routes since 2000 due to their length of involvement with the topic. Most of them indicated that there have been no significant changes. A few interviewees mentioned that Russia and China have emerged as new markets. Slovenia had very few illicit trafficking cases in the past, and it reports to have no illicit import cases in cultural goods since Croatia has joined the EU (in 2013), meaning that it no longer patrols the EU external border.[49]

The questions of trafficking routes for illicit trade in cultural goods were also covered in the **survey**. Survey respondents were asked how they view the developments in the origins of illicit traded cultural goods since 2000. The responses to this question can be found in Annex 3. Generally, the majority of the respondents to the survey indicated that they believe the origins of illicitly traded objects have changed since 2000, in particular, researchers seem to be certain of this change.

Survey respondents were also asked from which countries illicitly traded cultural goods are most likely to originate. Multiple answers were possible. As can be seen in Table 24 below, survey respondents see Iraq, Afghanistan, Italy, Turkey, Greece, Lebanon, and Cyprus as the most important countries of origin.

Table 24   Country of origin, N = 63

Country of origin	Respondents	Country of origin	Respondents
Iraq	29	Slovenia	3
Afghanistan	24	Cambodia	2
Italy	24	Estonia	2
Turkey	23	Iran	2
Greece	20	Ireland	2
Lebanon	20	Latvia	2
Cyprus	18	Lithuania	2
Romania	13	Malta	2
Bulgaria	12	Peru	2
Syria	12	Poland	2

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[48] See the lists of the State Parties to the Convention:
http://www.unesco.org/eri/la/convention.asp?KO=13637&language=E , to the first Protocol:
http://www.unesco.org/eri/la/convention.asp?KO=15391&language=E and to the second Protocol:
http://www.unesco.org/eri/la/convention.asp?KO=15207&language=E .
[49] We acknowledge that there may be different reasons for this. We do not have any information from Croatia (or other Balkan countries) to investigate whether they experienced a change in illicit trafficking cases.

Country of origin	Respondents	Country of origin	Respondents
Israel	11	United Kingdom	2
Croatia	8	Yemen	2
France	8	Algeria	1
Serbia	8	Bosnia and Herzegovina	1
Spain	8	China	1
Egypt	6	Colombia	1
Libya	5	Finland	1
Albania	4	India	1
Belgium	4	Kosovo*	1
(Sub-Saharan) Africa	3	Laos	1
Czech Republic	3	Mexico	1
Georgia	3	Netherlands	1
Germany	3	Norway	1
Hungary	3	Portugal	1
Montenegro	3	Russia	1
Slovakia	3	Thailand	1

* This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

3.5 Operation modes

3.5.1 Shift to online trade and its ramifications

Until the end of the twentieth century, the trade was conducted largely through personal interaction in physical settings such as the auction room, dealer gallery or exclusive reception. The development and widespread adoption of the Internet through the 1990s allowed the development of a large online market from the early 2000s onwards; then, during the late 2000s and 2010s, the invention of smart phones and associated social media and communication apps such as Facebook and WhatsApp provided further electronic means of trade. Academic research clearly shows that, from the late 1990s onward, **much of the illicit trade for antiquities in Europe and throughout the rest of the world moved online** (Brodie, 2015).

Online trading has greatly **expanded the market's customer base** by allowing people to buy objects from the comfort of their own homes wherever in the world they might be. The modes of transportation also changed: instead of couriers or dealers physically moving illicit cultural goods across the border in person, a lot of items are sent by regular post. Items are also sent 'on consignment', allowing the receiver of the goods to deny all knowledge of the contents and, therefore, avoid criminal responsibility. The ITRs for 2016 and 2017 show that mail was by far the most popular mode of transportation and was used almost exclusively for smaller cultural goods (WCO, 2016; 2017).

This expanding customer base together with the broad reach of online trading has created and progressively strengthened the **demand for small, inexpensive objects of a type that previously would not have been profitable to trade**.

> **Case study: cylinder seals**
> The targeted theft of 5.144 cylinder seals and 5.542 pins, glass bottles, beads, amulets, and other pieces of jewellery from basement storage rooms of the Iraq National Museum in 2003 announced the arrival this new market (Bogdanos 2005: 511–515). The sales at Sotheby's, Christie's and Bonhams summarised for this report (see section 3.2.4) did not contain a single cylinder seal between them, but seals were easier to find in more downmarket online sales. Among the 13 auctions hosted by Invaluable from 1 March to 1 September 2018, for example, one UK company alone in one sale sold 64 cylinder seals with only vague indications of provenance, while a Swiss company in another sale sold 99 seals with no provenance information whatsoever. With mean prices of €585 and €806 respectively, these seals would not have comprised an attractive financial proposition for the auction houses, unless bundled together in large lots.

Thus the development of the Internet and associated social media have greatly altered the nature of commerce, causing the **development of a high-volume, low-value trade, with many more objects being sold by a higher number of dealers than was previously the case**, some little more than private individuals operating from their own homes. Small, low-value objects pose problems for law enforcement as they are easy to conceal and transport, and their low value diminishes the apparent seriousness of crimes.

Large objects are broken into pieces by looters or smugglers precisely to facilitate transport and multiply sales. The **character of looting has also changed**. Since small objects that in the past would have been of little commercial interest are now saleable, they are looted when before they might have been ignored. There is a burgeoning market in metallic objects, particularly coins, **as metal detector finds have become progressively easier to sell online and the use of metal detectors seems to be spreading** (as corroborated by many interviewees, see Section 3.5.2 below).

Legality of metal detecting

The legal situation as regards metal detecting is different in each European country, with some countries maintaining an outright ban on private metal detecting, while others attempt to control their use by stronger or weaker systems of permits, licences and protection or reporting orders. One problem caused by these different legal regimes is that crime reporting across countries is not comparable. Metal detecting that might be a crime in one country might not be a crime in another country. More seriously, these different legal regimes will obstruct any attempt to introduce pan-European legislation to control trafficking that would require changes to existing domestic legislation controlling or permitting metal detecting. This study was not directly concerned with metal detecting and the cross-border movement and sale of metal-detecting finds, but it is a subject in urgent need of further investigation.

For sellers of cultural goods, the shift to online marketplaces allowed them to **transfer much of the financial and legal risk involved in the trade in potentially illicit cultural goods to the buyer**. Through the medium of online sales, illicit cultural goods can be kept in their countries of origin or in intermediary countries, put up for sale, and only shipped to buyers when they are sold. This limits the antiquities that are ultimately trafficked to those which have already been paid for and reduces the need for intermediaries to transport and launder illicit cultural goods as looters and early-stage brokers can access buyers directly. The cultural goods are then sent directly to the buyer via the post, or buyers are required to personally pick up the item purchased in its country of origin, again shifting the risks associated with trafficking away from the seller.

Recommendation: National authorities should invest in their relationship with postal services and online platforms through raising awareness and providing training about the illicit trade in cultural goods. This training should explain the abuse of the postal services and online marketplaces for illicit transactions, the need for cooperation, and possible ways of dealing with the issue. A good example to build on is Latvia, which already implements such an approach for its postal services (see Section 4.4.1).

As sellers do not need to spend resources on moving the items across the border, they can **invest more in creating false documentation** (and also provenance), which improves the chances of illicit cultural goods to cross the border, reach the buyer and, subsequently, enter the licit market. Online trading has also made it easier for dealers caught selling fakes or looted material to rebrand and continue trading under a new name. The old

constraints on business malpractice for what are often family businesses operating out of physical premises with a reputation to protect no longer apply.

The shift to online trading has also made it easier to insert fakes into the market. The relative anonymity of online trading and greater difficulties in ascertaining authenticity without physical access to an object are important drivers. Because many of the concerned items are 'low value', buyers will not have a relatively expensive authenticity analysis conducted. These considerations seem to explain why the amount of forged items has increased in the past years.

Both law enforcement and industry representatives interviewed for this study as well as survey respondents agree with the assessment that the illicit trade has moved online. Many law enforcement representatives said that online markets are one of their main foci where illicit trade in cultural goods is detected. Interviewees also agree that there is relatively little (possibility to exercise) oversight of such marketplaces, which was corroborated by the survey results.

In the context of online trade in illicit cultural goods, the so-called "dark web", which forms a part of the so-called "deep web" of non-indexable websites, is brought up by some scholars and international organisations as a place where illicit cultural goods are potentially being traded (e.g. Paul 2018; UNESCO 2018). Our interviewees expressed the opinion that few, if any, antiquities have been found for sale on the dark web, even during focused efforts to find them. Our research into the academic and other literature available supports this evaluation; discussion of illicit cultural goods for sale on the dark web in recent years has not included any evidence that it is happening (van Ham et al. 2011; Brodie 2018). As several interviewees pointed out, **there is limited motivation for the marketplace for illicit cultural goods to move to the dark web when it is relatively easy to sell on the visible web without being caught**. In addition, it can be argued that selling illicit cultural objects on the open Internet maintains an illusion of legality of the trade, whereas the dark web is notorious for being a place of criminally traded goods.

Recommendation: The EU and its Member States should explore how the online sales of cultural goods can be regulated and monitored. An obligation to register the transaction details should be introduced for all sellers of cultural goods, offline and online. Special self-regulation or regulation could be introduced for online marketplaces: for example, running automatic image checks for cultural goods on sale with the available databases of stolen cultural property; alerting bidders and potential buyers about the risk of buying illicit items (e.g. in the form of a banner on the pages selling cultural goods or as a warning before the bid for an antiquity); automatically flagging suspicious items and transactions to a dedicated contact point at the national police.

3.5.2 Relation to organised crime

While the art market players deny the existence of the problem of illicit trade in cultural goods, relevant authorities do indicate that the trade is sometimes linked to organised

crime. In some instances, the police and prosecutors come across this illegal activity while investigating other forms of crime, for example. In general, it appears that the conditions in which the art market currently operates may facilitate criminal behaviour in the case of unscrupulous traders. It is believed that the illicit trade in cultural goods sometimes operates as a mafia-style hierarchical organised criminal network, but other times as flexible networks of individuals and groups acting together opportunistically, many of whom trade illicit cultural objects in the public and seemingly-legitimate sphere (Campbell, 2013; see also the case study in Section 3.6). As mentioned in section 3.1, the opinions of stakeholders on the extent to which the illicit trade is organised differ significantly.

Dealers in illicit cultural goods face **less risk of apprehension and punishment** than dealers of illicit narcotics or arms. In general, it is a low risk/high profit business. This is due to several factors. Transactions in cultural objects tend to remain below the radar of the enforcement authorities because they are easy to conceal and difficult to spot for officers who have not received a special training. For instance, ancient coins can be mixed in the wallet with regular coins. Ancient rings, earrings, bracelets and necklaces can be worn by the trafficker as regular jewellery. In fact, the ITRs for 2015 and 2016 indicate that more than half of the cultural goods seized by customs were not concealed at all, and another sizeable portion was concealed in personal luggage (WCO, 2015; 2016). Thorough checks of suspicious cultural goods take up much time, which is particularly challenging for understaffed customs authorities.

Big cultural objects can be broken in small parts which cannot be recognized by non-experts. The fact that many of the objects, for example coming from illicit excavations, have never been recorded anywhere, decreases the possibility of discovery, further increasing the impression of impunity. Unlike other illicit objects, cultural goods are not per se illegal and, hence, it is difficult for non-experts to spot an object with an illicit or fake provenance or with fake export documentation, which is also linked to the evidential problems of proving criminal action. In addition, all phases of the illicit trade are facilitated by corruption that often involves public officials, police, diplomatic and military staff, and customs agents.

Facilitators
The smooth-running of the trade depends upon the involvement of a range of professional experts. This is particularly true of the higher-end trade. These experts include archaeologists, art historians and museum curators who identify, describe and authenticate material for sale, restorers, conservators and other scientific experts who prepare material for sale and also authenticate it, and specialist shipping and storage companies. These professional experts or facilitators are relatively few in number compared to collectors and dealers, and many are not dependent upon the trade as a primary source of income. Thus they might comprise a vulnerable point for the application of moral persuasion or punitive deterrence through police action. The actions of conservators and restorers are particularly well documented. They clean and restore objects so as to improve their appearance and saleability, but in so doing might destroy previous evidence of theft or illicit trade. In 2010, for example, Swiss customs seized a decorated Roman sarcophagus, coming from the UK, as a result of control at a freeport. In 2017 it was returned to

Turkey where it was believed to have been looted sometime between the late 1970s and 1990. A Swiss dealership had sent the sarcophagus to the UK in 2003 for restoration (Vuille et al. 2017). Sometimes conservators in Europe work on material that is destined for sale outside Europe. US court documents record New York dealers in Asian antiquities passing material through the UK for cleaning and restoration (New York 2016).

These professional experts might also be a covert source of human intelligence for police and other investigations.

In addition, in the context of the involvement of organised crime, the link between illicit trade in cultural goods and money laundering has been discussed repeatedly.

Money laundering and tax fraud

The connection of illicit trade in cultural goods with other criminal conducts, especially with money laundering, has been often discussed in media, official reports and by researchers. While verifiable money laundering is rarely linked directly to trafficking of cultural goods[50], the risk of such criminal practices is non-negligible due to certain features of art market.

The Swiss report on the national evaluation of the risks of money laundering and terrorist financing (CGMF 2015) highlighted the following characteristics that make illicit and licit trade in cultural goods susceptible to money laundering:
- Growing prices of art works and antiquities;
- Market in cultural goods is difficult to control due to its culture of discretion and lack of transparency; transactions can be done in secret or anonymously;
- The identification of the works of art and antiquities is complicated;
- The value of cultural objects is subjective and difficult to determine.

The said report also notes that "tax fraud is common" in the art and antiquities market, which is a contributing factor to money laundering. The EU Supranational Risk Assessment Report (European Commission 2017) assesses that vulnerability of the trafficking in cultural goods to money laundering is "significant/very significant". The main reason for this is the low risk exposure: the trafficking occurs via informal channels with no security or monitoring of transactions. Payments in cash (also high amounts) are common such that it is impossible to identify the buyer.

Free ports and customs warehouses (see Section 3.3.1) have been extensively criticised for being used for tax evasion purposes and money laundering (European Commission 2017; Korver 2018; European Parliament 2019b). High degrees of secrecy and the deferral of import duties and indirect taxes (e.g. VAT, user tax) are the main reason why free ports are used by buyers and sellers of cultural goods.

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[50] See the discussion at the symposium "The Art Market and Money Laundering" in the USA on 12 October 2018: https://law.case.edu/Lectures-Events/EventId/386/e/the-art-market-and-money-laundering-a-symposium-12-oct-2018 . The report on the symposium can be found in Small (2018): https://hyperallergic.com/465736/does-the-art-world-have-a-money-laundering-problem/ .

It seems to be a moot point among researchers and practitioners how often money laundering and other financial crimes occur on the market. There are indications that modern and contemporary art sales are most at risk of being abused for money laundering (Mödlinger 2018; CGMF 2015). With regard to the antique art and antiquities sales, Andrew Adams, Assistant US Attorney and deputy chief of the Southern District of New York's money laundering and forfeiture unit, explained at the symposium "The Art Market and Money Laundering" that such items sell slowly and are not liquid.[51] Therefore, they are not practical for money laundering purposes. By contrast, Mödlinger (2018) argues that high-end valuable antiquities are desirable investments for criminals. There is no evidence to support either of the opinions, and further targeted research into the art and antiquities market is necessary.

Tax fraud related to illicit cultural goods usually takes the form of donations to museums to obtain tax benefit. While no hard evidence could be found, research suggests that "antiquities with dubious and possibly illegal origins" (i.e. potentially illicit cultural goods) were donated to museums (Yates 2016a). What makes such questionable operations possible is the donation system that lacks regulation and scrutiny and favours the privacy and anonymity of the donor.

Besides trafficking in illicit goods (firearms, narcotics), criminal organisations can be involved in other criminal activities that are more closely and directly related to trade in cultural goods. Usage of metal detectors (which is illegal in some countries) to illegally excavate cultural goods and manufacturing of fake antiquities (which is fraud if fakes are sold as originals) are lucrative enough, especially if conducted on a large scale. Many interviewees indicated that metal detectorists pose a problem (e.g. in Bulgaria, Cyprus, Germany, Norway, Romania, Slovenia), also because they damage archaeological sites. There have now been several successful operations in different European countries against gangs searching with metal detectors and selling their finds online, and numerous police raids have recovered metal detectors alongside looted objects. In France, for example, an investigation of the Facebook group Archéo 21 from March 2014 to March 2015 uncovered a group of metal detectorists discussing and selling illegal finds, which included the so-called Trésor de Laignes, comprising 2000 Gallic coins. The police arrested six people in five different departments, seizing metal detectors and other illegal finds (Dupont 2015; Brenot 2016). Original research conducted for this project showed how Russian Internet discussion forums are used to value and sell metal-detecting finds, mainly coins, militaria and religious objects.

Snapshot of Russian forums
This snapshot focused on Russian language metal detecting forums providing platform to share first-hand finds, often freshly found. Due to the amount of posts and sections available on the forums, the snapshot was limited to items posted between 1st and 3rd of July 2018; that way it was possible to portray more varied picture of the finds. The focus was on historic items that looked like they could have been found by metal detecting.

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[51] Ibid.

The overwhelming number of items were coins. Coins after WW2 were not included in this snapshot, as these were usually treated separately on every forum and often were from very recent decades. Two posts described finding coin hoards with a large number of coins (600 and 7199), but what happened to them afterwards was not described. The find spots of coins were not usually named. For religious objects, the region where they were found was frequently named, presumably because it helped with the identification of the object. There were also a significant number of militaria objects, most notably remains of weapons such as bayonet knives, bullets, and cases. The usage of metal detectors was not always named explicitly, but could be assumed when users said that they found an item in the forest or the like.

It seems that a significant number of items are first being put up on forums for identification and/ or for valuation. After they are assessed by the forum users, they are sometimes moved on to an auction section of the forum or possibly sold privately. With particular sections such as Numismatics or Metalloplastic (literal translation; section includes icons, crosses), there seem to be prominent users who often offer their valuation.

The value of the objects is usually not high on the metal detecting forums. A large proportion of these were valued at few hundred rubles, followed by some items in the range of few thousand. Only three items seemed to be very expensive—the hilt of a flail (asking price 108 000 rubles); a 5 ruble coin from 1874 valued to be worth up to 30 000 rubles; and a 3 1/2 Gulden coin from 1854 evaluated to be worth at least 300 dollars. However, although the value might not be high, the number of items available is impressive. For example, the Numismatics section on reviewdetector.ru has 3987 pages, and there are between 19 to 30 posts per page. The first post dates to July 2006. These posts mostly deal with valuations or identifications of objects. The military archaeology section on the same forum has 727 pages, and the earliest entry dates back to October 2006. On the forum reviewdetector.ru posts can be accessed without creating a user account, while on others such as ww2.ru to view photos you need to be a registered user.

3.5.3 Relation to terrorism and terrorism financing

In recent years, the illicit trade in cultural goods has repeatedly been connected to terrorism financing. United Nations Security Council Resolution 2199 (2015), for example, noted with concern "*that ISIL, ANF and other individuals, groups, undertakings and entities associated with Al-Qaida, are generating income from engaging directly or indirectly in the looting and smuggling of cultural heritage items from archaeological sites, museums, libraries, archives, and other sites in Iraq and Syria, which is being used to support their recruitment efforts and strengthen their operational capability to organize and carry out terrorist attacks*". The conducted desk research shows that, while there is clear evidence of various terrorist and other violent non-state actors profiting from illicit trade, including the Khmer Rouge in Cambodia in the 1980s and the Taliban and others in Afghanistan in the 1990s, reliable empirical evidence for the nature and importance of the relationship is rarely forthcoming. Two questions in particular remain unresolved. First, to what extent do

terrorist and other armed groups exert "command and control" over looting and illicit trade? Second, to what extent do such groups actually profit from the trade?

Some armed groups have been actively involved in looting and trafficking, while others have been more concerned to exert control over trade in their occupied territories. Early on in the Syria conflict, for example, Free Syrian Army members were digging and selling cultural objects for money to fund weapons' purchases (Luck 2013). Daesh, in contrast, controlled looting and trafficking through a permit system, imposing a 20 per cent "khums tax" on any proceeds (Al-Azm et al 2014), and allowing safe passage for non-affiliated dealers or smugglers (RT 2016).

It is an open question as to whether terrorists and other armed groups are directly involved in looting and trafficking cultural objects, or whether instead the disturbed conditions caused by armed conflict present lucrative opportunities for pre-existing organised criminal groups. In Yemen, for example, there has been a longstanding problem with looting and trafficking. Between 2006 and 2012, predating the Houthi occupation of 2015, around 1.500 cultural objects were seized at Sana'a International Airport alone (Al-Yarisi 2013). In February 2016, Houthi shelling destroyed the Taiz Museum along with much of its collection (Al-Sakkaf 2016). A Yemeni government report subsequently stated that the museum 'has become easy prey for unscrupulous individuals and traders of antiquities. Such people started laying their hands on the museums' holdings and looting them' (Antiquities Coalition 2018: 87). Thus, looting and trafficking in areas of terrorist or insurgent control should not be viewed automatically as evidence of their direct involvement or even profiting, though that is likely to be the case. An important European example for the link between terrorist financing and trafficking of cultural goods has been provided by the recent Jaume Bagot case (see Section 3.6.3). The case is currently being prosecuted.

The amounts of money the looting and trafficking provides terrorist groups remain unclear and many quoted figures seem inflated or exaggerated (van Lit, 2016; Brodie 2018). Most claims that Daesh, for example, was making millions of dollars from trading in cultural goods can be traced back to an ambiguously-worded statement attributed to an unnamed Iraqi "intelligence official" reported in the Guardian newspaper, which claimed that in Syria Daesh "had taken $36m from al-Nabuk alone [an area in the Qalamoun mountains west of Damascus]. The antiquities there are up to 8.000 years old" (Chulov 2014). This figure has never been verified or corroborated, and is at variance with what is known of the pricing structure of the trade, where most profits are made on the destination market, not at source. The financial structure has been explained in the report 'Cultural Property, War Crimes and Islamic State' prepared for the War Crimes Unit of the Dutch National Police:

> *The amount one would (illegally) pay in the Netherlands, London, Munich or New York for an item is not the amount IS earns with this trade. IS only earns money with their permit-system and what they sell themselves on illegal local auctions, if they would do so, for example. Buying illegal items on, for example, the Dutch art market does not finance IS or their terrorist activities directly. It does however*

contribute to the existence of an illegal market that triggers IS members (and others) to get involved in the illegal trade in cultural property. (van Lit, 2016)

Nevertheless, it is a fundamental reality of the trade that some of the money paid in Europe for objects excavated in or traded through territory controlled by terrorist organisations must 'trickle down' to the organisations involved.

There is no evidence to support claims that Daesh might have been making millions or even billions of Euros annually from the trade, or that the trade might have been a major source of revenue. Nevertheless, there is evidence that terrorist and other armed insurgency groups do profit from the trade. On 16 May 2015, US Special Forces raided the Syrian compound of Abu Sayyaf, head of the Daesh Diwan al Rikaz (so-called Ministry of Natural Resources and Minerals, including its Antiquities Division), where they seized a book of receipts, dated to between 6 December 2014 and 26 March 2015 recording $265.000 tax revenue made from antiquities sales. Extrapolating, it would suggest that Daesh would have made $795.000 in a year (Brodie 2018). Thus, the available evidence suggests that illicit trafficking in cultural goods is not the main source of terrorist group funding by far (Howard et al., 2016). Some research states that it is a 'marginal source' (CAT, 2015); other research explains that, while the money made of trafficking in cultural goods is not significant, it may be still important in relative terms or as diversification of the revenue portfolio for the budget of terrorist groups (Altaweel, 2016; Howard et al., 2016).

Most existing research suggests that the involvement of terrorist organisations in trafficking cultural goods—and making money thereof—is limited to territory that they control (van Lit, 2016; FATF, 2015; Brodie 2018). There is no evidence that terrorist groups organise illicit trade activities outside their subject territories, where it is more likely that transnational organized criminal groups are involved—the so-called crime-terror nexus (Makarenko 2012). Nevertheless, a disturbing though under-reported and under-researched possibility is the voluntary or involuntary involvement of expatriate or diaspora traders in funding terrorism or other armed violence in their home countries. Such traders may be vulnerable to extortion demands with threats directed at friends or family members still resident at home, or to appeals for personal or family loyalty to more broad ranging political or religious groupings. In 2009, for example, a Taliban-affiliated Haqqani commander was quoted as saying the Haqqanis received financial support from expatriate "businessmen who smuggle precious stones, sculptures and other historic artefacts [who] pay dues to the Taliban to avoid trouble on the road" (Peters 2010: 36-37). Other unsupported allegations have also accused expatriate dealers in Europe or the United States of channelling money back to terrorist or insurgency groups in their home countries. Investigating the possibility of such money transfers is a matter of some urgency as the sums of money involved would be much larger than those generated through looting and trafficking in source countries.

The interviews conducted for this study did not bring any new evidence to substantiate the connection between terrorist groups and the illicit trade in cultural goods. Most law enforcement officials that were interviewed for this study stated that, to their knowledge, no cases exist in their respective countries where a link between trafficked antiquities and

a terrorist group was established. At the same time, however, interviewees also reported only a very small number of cases or even no cases at all involving cultural goods from conflict zone countries in the Middle East and North Africa. An opinion was repeated that such objects are too 'hot' at the moment and are being stored away, to resurface (much) later when the issue has disappeared from public view. Alternative explanations are that the material is being traded on the so-called invisible market, as exemplified by the Bagot case, or that small, inexpensive objects are being sold openly on the Internet or at other venues but are not being recognized as recently looted.

Interviewed law enforcement officers also noted the shift in framing since 2000 of how trafficking in cultural goods sourced to the Middle East or North Africa is discussed publicly. One interviewee stated that the link to terrorism financing has caused illicit trade to become a political issue, which was not previously the case. Another interviewee, confirming the above, also emphasised that **looting and trafficking does not end when terrorist groups are defeated. Illicit trade in cultural goods in an organised crime in the first line, and the profits simply flow through ordinary criminal channels instead**.

Nevertheless, the interviewees agree that, all in all, the connection between the issue of trafficking in cultural goods and terrorism financing may have been exaggerated, but is beneficial. Illicit trade in cultural goods is now viewed as an issue of national and international security, which means it has moved up the ladder of political priorities of many countries where policy-makers and the general public are now (more) aware of the problem. The obvious danger with this securitisation process is that as public perceptions of the terrorist threat shift, as has been the case over the past five years from Syria to Yemen (and before that from Iraq to Syria), policies and actions aimed at suppressing illicit trade will shift along with them.

Recommendation: It needs to be generally accepted that trafficking routinely funds organised crime and, when an opportunity presents itself, terrorism. To stop this from happening, Member States are encouraged to implement the relevant UNSC resolutions.

While the art market players deny the existence of the problem, the relevant authorities do indicate that illicit trade in cultural goods is sometimes linked to organised crime. In some instances for example the police and prosecutors come across this illegal activity while investigating other forms of crime. In general, it appears that the conditions in which the art market currently operates may facilitate criminal behaviour in the case of unscrupulous traders.

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3.6   Case studies

In this section we provide brief case studies of investigations that have been widely published in the media, to showcase (the complexity of) trafficking routes and associations with organised crime and—in one case—terrorism financing. These case studies should not be considered as comprehensive or representative of the whole spectrum of illicit trade in cultural goods, but serve as an illustration of what the route of a particular object may look like and underline the findings from the analysis in the preceding sections of this chapter. The case studies also highlight the difficulty of developing an accurate description of the trafficking route of an object based on open source data.

3.6.1   Dacian bracelets

During the 1990s[52], the area of Sarmizegetusa Regi, Romania, the ancient capital of the Dacian Kingdom, was looted by organised criminal group with international connections (Oberländer-Târnoveanu, n.d.). In the course of looting, several hoards of solid gold bracelets and coins were removed from the archaeological site, which was included in the UNESCO World Heritage list in 1999. The looters used metal detectors, which had become available in the country after the fall of communism. All in all, it is believed that 24 gold bracelets were illegally excavated.

Image 4.   Dacian Bracelets

Source: Romanian Police

It can be assumed that for quite some time the looting went unnoticed by the authorities, perhaps because no significant Dacian treasures (especially in gold) had previously been found; only rumours circulated about gold finds. The first specific indication that the rumours might have some basis in fact was in 1996 when several Romanian museums were offered a large amount of gold Dacian coins, namely 400 Koson, which was much more than all museums of the world contained at that time (May 2012). In the subsequent years the suspicions grew more concrete. For instance, the world learned about the existence of gold bracelets in December 1999 when one of them was offered for sale at

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[52] Some sources give different timespans of looting, between 10 and 17 years. See:
http://www.adz.ro/artikel/artikel/den-dakern-und-ihrem-gold-auf-der-spur/ and https://www.romania-insider.com/traffickers-dacian-artifacts-trial/.

the Christie's auction house in New York.[53] The police opened first investigations in 2001 (May 2012).

What happened to the looted treasure, and bracelets specifically, once they were removed from the archaeological site is difficult to retrace based on the information from open sources. It is believed that at least some of the bracelets passed through the hands of the trafficking group known as the "Serbian cartel" operating out of Zurich (The hunt for Transylvanian Gold 2017). They most likely first transported the bracelets to Belgrade, which was known as a major hub for stolen art (The hunt for Transylvanian Gold 2017). From Belgrade, the artefacts in small packages were transported by busses overnight to Vienna, Munich and possibly Zurich and Geneva. Hereafter, the artefacts were distributed to London, Paris and New York. For a long time, the whereabouts of the bracelets remained unknown, until they were re-discovered and then recovered by Romania from different European countries and the USA.

In winter 2007, after the investigations by the Romanian authorities in collaboration with Interpol, four spiral-shaped gold bracelets were returned from France and the USA. The same year, thanks to cooperation between the Romanian and French police, the fifth gold bracelet was recovered. In summer 2007, the sixth bracelet was discovered by the Romanian Border Police from a member of a criminal gang, as a result of an undercover operation. That same year three more bracelets were repatriated from collectors in Switzerland and the USA, and in 2008 two more were brought back from the USA to Romania (Constantinescu et al. 2009). In 2009 and in 2011, two more bracelets were repatriated, bringing the total number of recovered bracelets to 13 (Oberländer-Târnoveanu, n.d.). The whereabouts of the eleven remaining bracelets are unknown.

The value of the looted Dacian bracelets is difficult to assess. These unique artefacts are made of solid gold and are of different sizes and weights. One indication of market value is the auction estimate of one bracelet at the Christie's in 1999, which was $100.000, though the bidding stalled at $65.000 (Curry 2015). One has to point out, though, that at this time there were serious doubts about the authenticity of the bracelets (because no archaeologically excavated Dacian gold jewellery was known at the time). After thorough investigation by experts however, including chemical tests showing they were made from local gold panned from the rivers around Sarmizegetusa, the authenticity of the bracelets was confirmed (Constantinescu et al. 2009).

Another indication of value is the estimation by the courts of the damage inflicted to Romania. At the trial of ten individuals, acting as criminal group and involved in trafficking of the gold bracelets, the Romanian Ministry of Culture and Religious Affairs initially requested damages of €6,6 million (Guţă 2018). But in 2015, the Deva Court ruled the payment of damages of only about €1,5 million (Marica 2018).

One more indication is provided by the actual sums of money for which the bracelets were sold, according to the investigators (Guţă 2018). Specifically, in the case of one of the

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[53] The sale of the bracelet was called off, and it and its owner disappeared and have not yet been found. See https://news.nationalgeographic.com/2015/03/150320-romanian-dacian-sarmizegetusa-gold-looted-recovered/.

accused the investigators established that he sold six Dacian bracelets for the following prices:

Table 5   Dacian bracelets, weight and value (EUR)

Bracelet weight	Price
982.20 gr.	€392.400
1.076,72 gr.	€430.400
1.115,31 gr.	€446.000
927,98 gr.	€370.800
1.200,00 gr.	€478.400
1.139,00 gr.	€454.400

Smaller bracelets were sold at lower prices. In the case of another accused, the investigation established that he sold one 765 gram gold Dacian bracelet for €305.600 and another bracelet of 683 gram for €272.800. From the open sources, it is unclear when, where and to whom these sales were made.

One final indication of market value could be the price Romania was forced to pay in compensation to private collectors who had bought Dacian bracelets in good faith when the bracelets were repatriated. Unfortunately, there is little open source information about this. Some sources indicate that Romania paid €430.000–500.000 to Swiss and German collectors.

In any case, the archaeological and historical value of the artefacts is hard to overestimate, and, due to the looting, much of it has been lost and cannot be recovered.

On the whole, it has been difficult to retrieve information about the routes of the Dacian bracelets. Despite this case being relatively well-known and widely publicised, little information is available regarding the transportation routes and methods. This illustrates and underscores the difficulty of developing an overview of the routes that an object has passed.

Figure 2   Visualisation of the routes of the Dacian bracelets
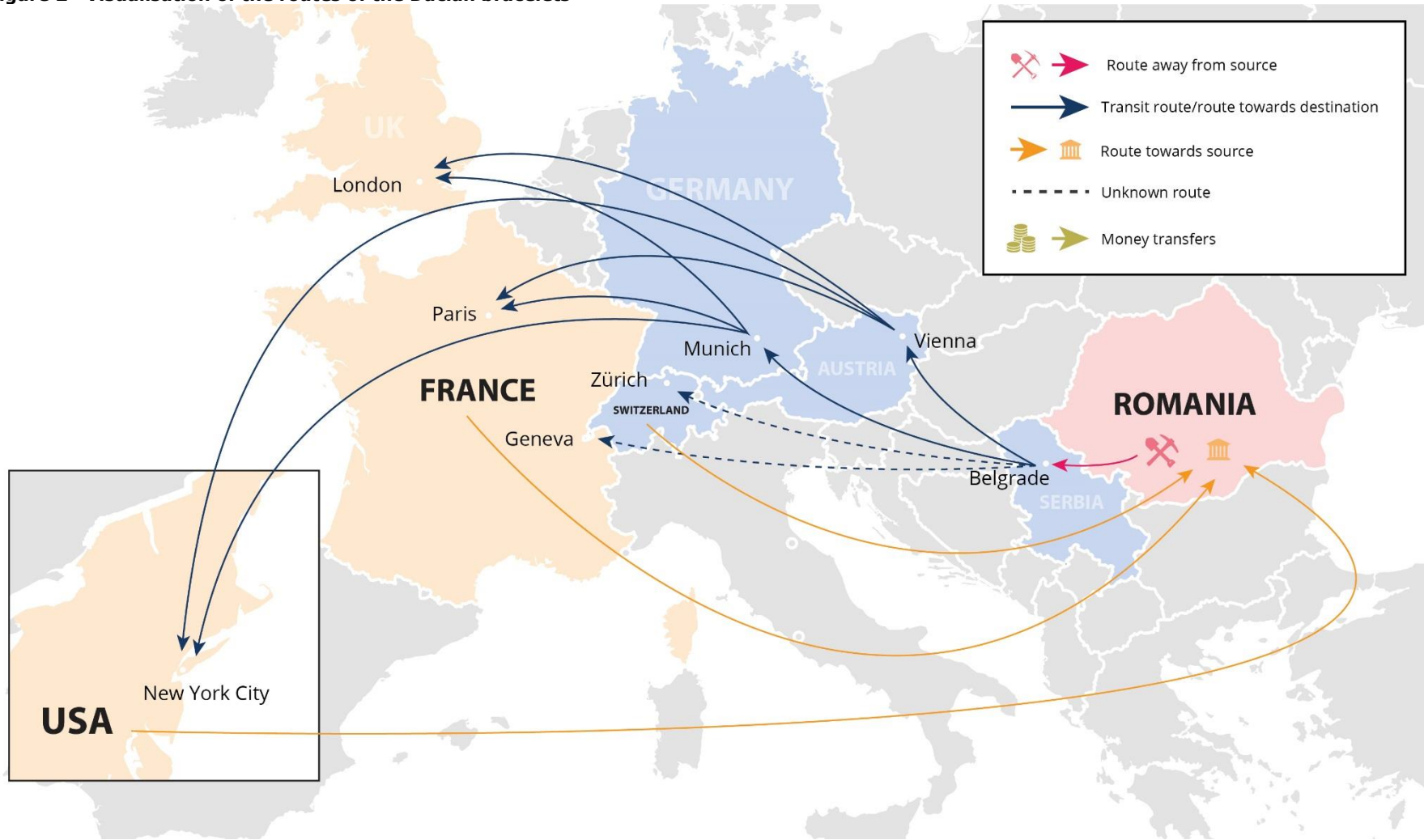
Source: Ecorys

The above visual is based on desk research conducted by the project team and serves as an indication of the routes. Whereas evidence exists that the bracelets have travelled these routes, we do not claim that the illustration depicts the entire route that the objects have taken. Due to lacking and difficult access to information, the above presented visual might be incomplete or inaccurate.

3.6.2 Sicilian trafficking ring

On 4 July 2018, following a four-year investigation code-named "Demetra", a coordinated action by the police of Germany, Italy, Spain, and the UK searched 40 houses, identified 41 suspects, and arrested 23 of them in connection with trafficking cultural goods (Carabinieri 2018; Agrigento Notizie 2018). Over 25.000 archaeological items with an estimated market value of over 40 million euros were seized, alongside some 1.500 tools and metal detectors that could be used for illegal digging. Most of the investigative work was carried out by the TPC Carabinieri as the operation covered both northern and southern Italy, namely the provinces of Agrigento, Caltanissetta, Catania, Crotone, Enna, Lecce, Naples, Novara, Taranto, Turin, Ragusa, Syracuse and Palermo. The cross-border cooperation was coordinated by Europol and Eurojust, and three European Arrest Warrants were executed in Stanmore (London, UK), Ehingen (Baden-Württemberg, Germany) and Barcelona (Spain). The massive operation involved more than 250 police officers, including the support of the 9th Helicopter Palermo and the "Cacciatori Sicilia" Eliportato Squadron– the Carabinieri divisions dealing with mafia.

Demetra started as local police investigation into illegal digging in Riesi (commune in Province of Caltanissetta in Sicily) (Carabinieri 2018), but took international dimensions and focused on trafficking in cultural goods once the Carabinieri established that Gaetano Patermo, one of the suspects, had contacts to members of another organisation that operated between London, Munich and Barcelona (Caltanisetta Live 2018). Incidentally, Patermo was arrested for and accused of organised looting and trafficking in archaeological goods in 2007, but was acquitted in 2013 both because of an amnesty agreement and because the crime was not proven in the trial.[54]

The investigation alleges that, for years, there was organised illegal excavation activity in the Italian provinces of Caltanissetta and Agrigento (Sicily). These provinces are renowned for their rich archaeological sites from the Greek and Roman times, including the UNESCO World Heritage site and Italian national monument "Valley of the Temples", which was also targeted by the criminals. Besides looting, it is alleged that the criminal organisation forged coins and other archaeological items in special workshops, located in Catania and equipped with teams of counterfeiters (The Telegraph 2018). The looting and counterfeiting activities were allegedly run by Francesco Lucerna, himself a former tombarolo (grave-robber) from the Riesi area (Agrigento Notijze 2018).

The illegally excavated and forged items were then transported to northern Italy, in particular to Piedmont, and then southern Germany by a network of couriers. Various means of transport were utilised, including lorries with false doors and even personal

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[54] At the same time, 8 other persons were convicted in that trial, including the mastermind of the criminal organisation (Parisi 2013; Cocks 2018).

luggage and wallets. Some of the items were sold to collectors in northern Italy, who allegedly knew about their illicit origins (The Telegraph 2018).

It is believed that in Germany the couriers made direct contact with the members of another organisation that was responsible for legalising, selling of smuggled items and distributing of the proceeds (Ministerio Beni Cultuali Italia n.d.). Also in Germany, another accomplice created fake provenances for the smuggled items, usually "From a Lower Bavarian private collection". After that the items were sold via two Munich auction houses, which are currently under investigation, and directly to collectors in Turin (Christie 2018; Cocks 2018).

The alleged head of the activities for legalising and selling of smuggled goods, a London art dealer William Thomas Veres, collected the proceeds and then redistributed them via Barcelona back to the Italian organisation to further fund the illegal excavations. The money was brought back by a network of cash couriers (Caltanisetta Live 2018). It is alleged that Veres and his accomplice Andrea Palma, acting from Barcelona, were key facilitators of the trafficking who coordinated the supply chain and provided technical support (The Telegraph 2018).

The court proceedings in this case are ongoing (ARCA 2018), and it remains to be seen what new information will come to light about trafficking routes and organisation of illicit trade during the trial.

The routes described above are visualised in the figure below. The visual is based on desk research conducted by the project team and serves as an indication of the routes. Whereas reports exist that the items have travelled these routes, we do not claim that the illustration depicts the entire route that the objects have taken. Due to lacking and difficult access to information, the above presented visual might be incomplete or inaccurate.

Figure 3   Visualisation of the Sicilian trafficking ring routes
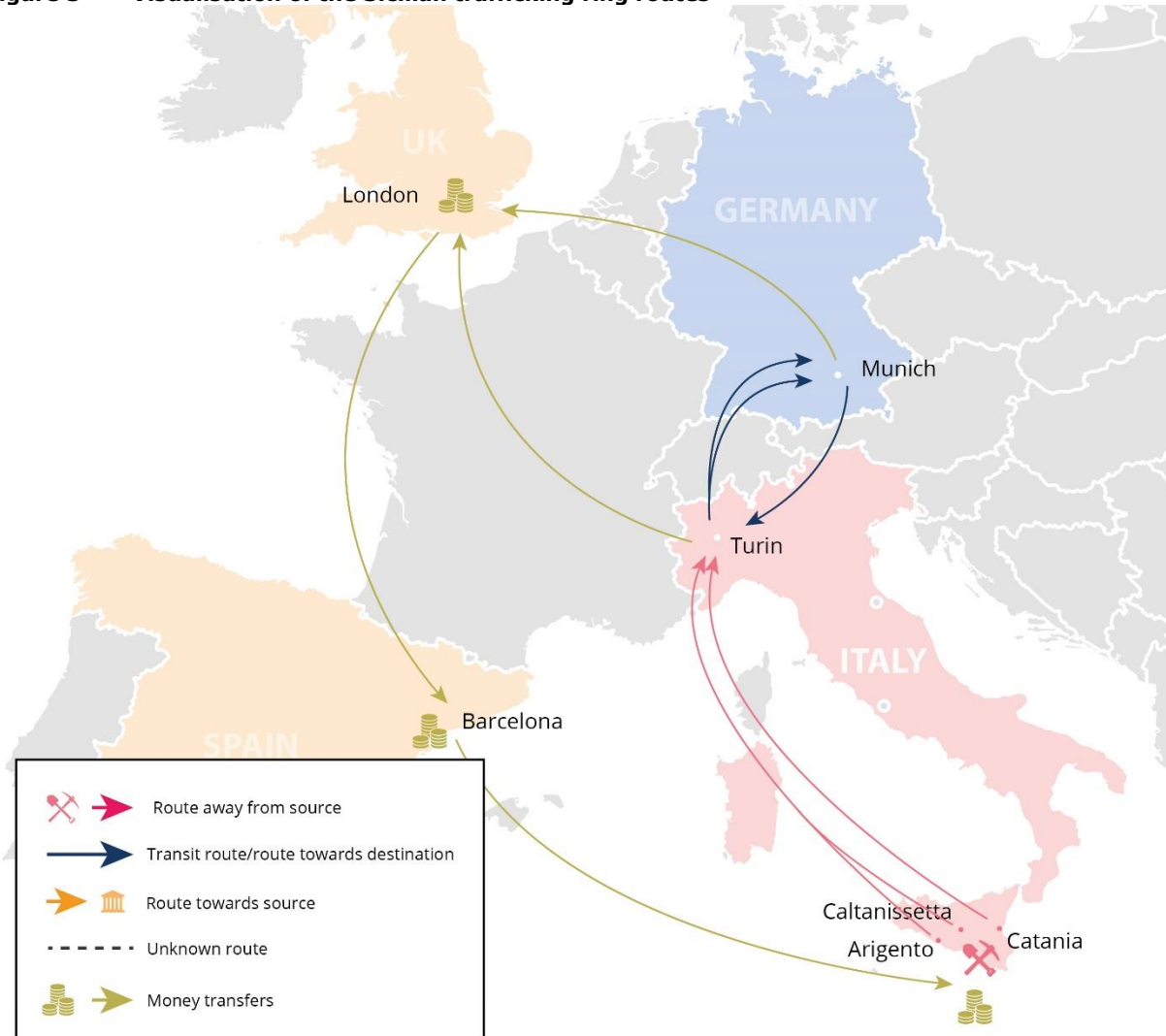
Source: Ecorys

3.6.3 Jaume Bagot case

In March 2018, as the culmination of an investigation started in 2015, two Spaniards by the name of Jaume Bagot and Oriol Carreras Palomar were arrested and charged by Spanish authorities for their alleged role in the sale of Greek and Roman antiquities that were trafficked from Libya (a conflict zone) and Egypt into the European Union and that were purportedly laundered and sold on the European art market (CNN 29 March 2018). The Libyan objects were sourced to territory controlled by militias associated with terrorist groups. Formal charges include terrorism financing, membership of a criminal organisation, dealing in stolen goods, concealment of contraband and document fraud/ forgery (to facilitate the sale of illicit items) (ABC España, 1 April 2018).

Jaume Bagot, owner of *J.BAGOT Arqueología – Ancient Art* in Barcelona, is (or perhaps was) an internationally respected dealer of high-end cultural goods. He is a member of the art trade association CINOA (Confederation Internationale des Négociants en Oeuvres d'Art) and the Spanish Federation of Antiquarians, and the Vice-President of the Professional Group of Antiquarians of the (Barcelona) Royal Shipyard. Police statements indicate he appeared at several academic conferences to discuss the destruction of historical sites by Daesh.

Police allege that six objects comprising the of heads and torsos of statues were bought by the arrested dealers. These objects had been looted from the sites of Balagrae, Apollonia and Cyrene in northern Libya between 2014 and 2015, when the sites were subject to the territorial control of Daesh affiliates Ansar Al Sharia Benghazi and Ansar Al Sharia Derna (Muñoz and Morcillo 2018).[55] Pieces of sculpture from Cyrenaica sell on the open market for anything between $4000 and $400.000 (Sykes 2016). In March 2015, a 1,2 m high marble statue of a goddess looted from Cyrene and seized at London Heathrow in 2011 was valued at between £1,5 to £2 million (Ward 2015). Both Jaume Bagot and Oriol Carreras Palomar deny buying from terrorist groups or knowingly buying illicitly traded cultural goods.

Police discovered that the Libyan pieces had been transported from Libya to Spain between 2013 and 2015 by two routes (Muñoz and Morcillo 2018; Lamarca and Parga 2018). The first was across Egypt to Jordan and then on to Spain. A variation of the first route was to send items from Egypt to Jordan, then to loop through Saudi Arabia and United Arab Emirates back to Jordan again, and only then to transport items to Spain. The second route was through Jordan, the United Arab Emirates and Thailand and on to several European countries such as Russia, Germany, France or the United Kingdom. Police established from e-mails that Bagot was working with Hussam Zurqieh, a Jordanian dealer based in Dubai, and Hassan Fazeli, an Iranian dealer based in Dubai and Thailand. (The statue seized at Heathrow in 2011 had also been dispatched from Dubai by Fazeli). Most purchase invoices stated incorrectly that the pieces had been bought in Turkey or Egypt. Other members of the network were identified in Belgium, the United Kingdom and Germany.

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[55] In 2015, the International Council of Museums has published an Emergency Red List of Libyan Cultural Objects at Risk, and a number of Libyan UNESCO heritage sites have been put on the UNESCO 'World Heritage in Danger' list.

The court proceedings in this case are ongoing, and it remains to be seen what new information will come to light about modus operandi and precise trafficking routes during the trial. The routes described above are visualised in the figure below.

The visual is based on desk research conducted by the project team and serves as an indication of the routes. Whereas reports exist that the items have travelled these routes, we do not claim that the illustration depicts the entire route that the objects have taken. Due to lacking and difficult access to information, the above presented visual might be incomplete or inaccurate.

Figure 4   Visualisation of routes mentioned in Jaume Bagot case

Source: Ecorys

3.6.4 Kanakaria Mosaics

In the aftermath of the Turkish invasion in Cyprus in 1974, the Church of Panagia Kanakaria in Northern Cyprus was raided (around 1976). The church, a Byzantine Monastery from the 6th century AD, was famous for its Early Christian mosaic art which had been stripped off its walls (The History Blog 2018). In total, 4 mosaics were removed. The mosaics were broken down, and the individual pieces found their way into the international art market. For almost a decade, no news on the mosaics surfaced until a London-based art dealer became suspicious when a Germany-based Turkish dealer offered him two pieces of the mosaics. He got in touch with the Cypriot authorities and, ultimately, two icons were returned to the Republic of Cyprus (Bourloyannis and Morris 1992).

A few years later, in 1988, a US art dealer Goldberg bought four pieces of the mosaics for over $1 million. She bought the items from the Turkish smuggler and art dealer Dikmen who had also offered items to the London-based dealer in 1983 as mentioned above. This time Dikmen collaborated with another American art dealer, a Dutch dealer and an American attorney (University of Geneva, n.d.). The pieces were transported to Indiana (USA) via the Freeport of Geneva. Once the pieces were in Goldberg's hands, she tried to sell them to the Getty Museum in Malibu, USA. In the meantime, the Autocephalous Greek Orthodox Church of Cyprus and the Republic of Cyprus had learned of the four pieces were bought by Goldberg. After a long lawsuit, all four pieces returned to Cyprus in 1991.

Dikmen remained at large until 1997, when the German police and INTERPOL identified and seized from his apartment in Munich 260 icons, frescoes, mosaics and manuscripts from Cyprus (The Cyprus Mail 2018). Sixteen years later, 173 ecclesiastical artefacts from 50 different churches were repatriated to Cyprus, amongst which were four pieces of the Kanakaria mosaics. A full account of the operation and of her own role in it is provided by Tasoula Hadjitofi in her book "The Icon Hunter" (2017). In 2014, another piece was located by a London-based Cypriot art historian who was asked to prepare a historical report on the piece. After negotiations, the piece was returned to the Republic of Cyprus early 2018 (The National Harald 2018). In that same year, art detective Arthur Brand was able to return the latest major missing piece of the Kanakaria mosaics (Brand 2018). After receiving a tip, he was able to locate the piece in Monaco where a British family turned out to be the current owner of the piece (Archaeology News Network 2018). The family had bought the piece in good faith and returned the fragment to Cyprus in November 2018.

Twelve pieces of the Kanakaria mosaic—the major ones—have been returned so far but some are still missing (The Cyprus Mail 2018).

The figure below visualises the routes described above. The visual is based on desk research conducted by the project team and serves as an indication of the routes. Whereas reports exist that the items have travelled these routes, we do not claim that the illustration depicts the entire route that the objects have taken. Due to lacking and difficult access to information, the above presented visual might be incomplete or inaccurate.

Figure 5   Visualisation of the routes of Kanakaria Mosaics
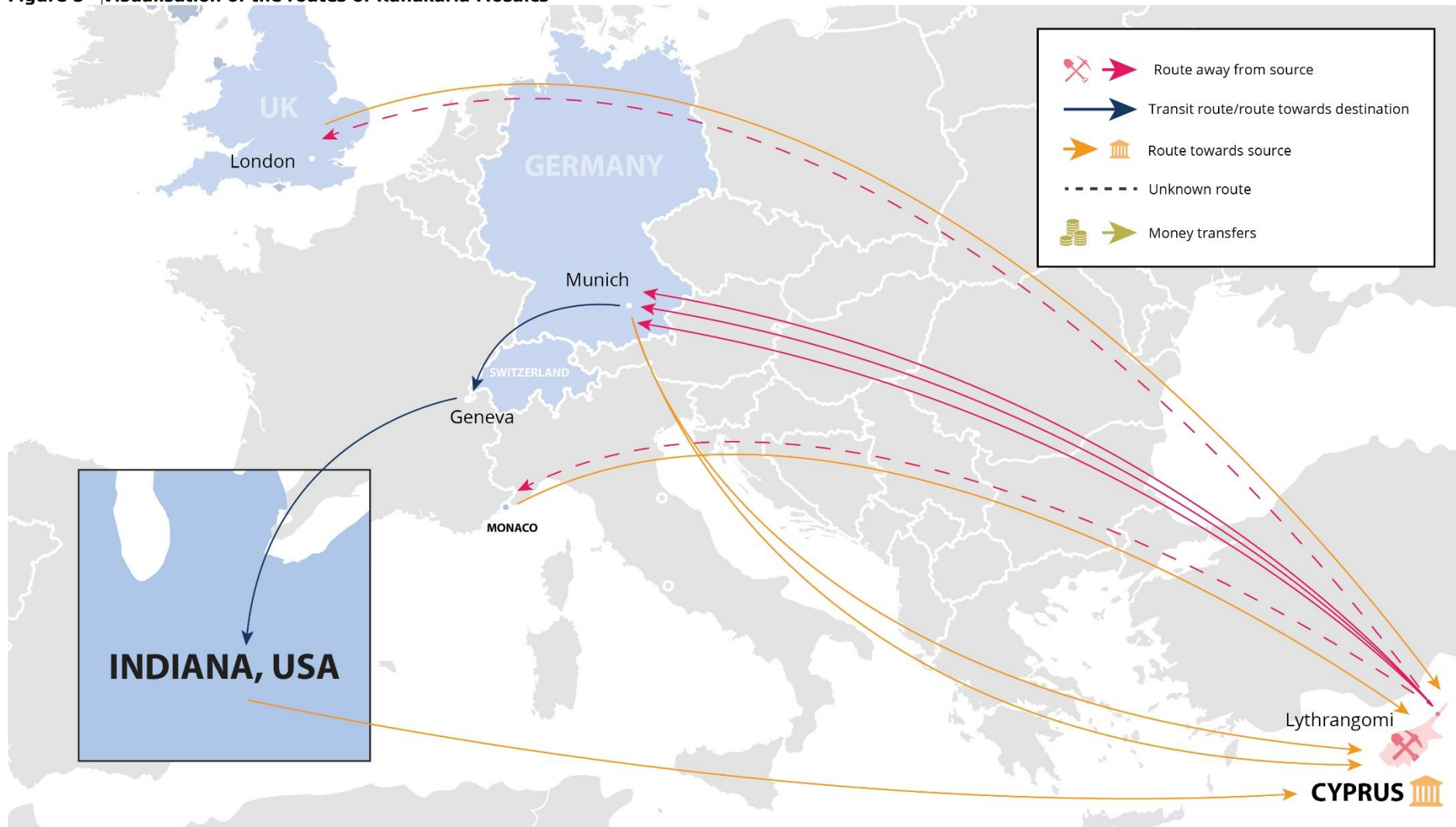
Source: Ecorys

3.6.5 What does this tell us

The case studies above illustrate how difficult it is to draw a full picture of trafficking routes of illicitly traded cultural goods. Often, the exact routes that an object has travelled are not known or are not presented in open source data. In most cases, only the geographic point where the items were intercepted by the police or customs is known with certainty. Furthermore, the route of one single object is neither representative of the entire trade nor can the data on one case study be extrapolated to illicit trade in cultural goods as a whole. The case studies also demonstrate that particular cultural goods may be trafficked for a long period of time, during which their whereabouts are unknown. This requires a high level of sophistication and planning, and—as also shown by the case studies—criminal organisations of different types may provide the necessary networks, logistics and expertise. A thorough analysis of the routes of different objects would require substantial resources and time and fall out of the scope of this study.

4

4. Criminal justice responses to trafficking in cultural goods and the challenges faced by the authorities

Given the cross-border nature of illicit trade in cultural goods, this chapter analyses criminal justice responses focusing on the relevant practical matters on the national and international level. Based on the data and information collected through interviews, desk research and a survey, this chapter discusses challenges faced by law enforcement authorities as well as the best practices that have proven to be effective in combatting illicit trade in cultural goods.

This chapter looks first at the national level activities of law enforcement agencies (Section 4.1) and turns then to the cross-border level (Section 4.2). Challenges faced by authorities are discussed in detail in Section 4.3. A selection of best practices —corresponding to the identified challenges—is presented in the final Section 4.4.

4.1   National level responses

The actual organisation and division of competences and responsibilities between different law enforcement agencies are outside the scope of this study, as they are predetermined by the more general national systems of law enforcement. In all countries, customs is the agency that controls goods and people crossing external borders and is, therefore, at the front line of detecting illicit goods of any kind entering the country. Often, customs is supported by the border police who are in charge of physically checking those external borders. In some countries, customs is also tasked with investigation of illicit trafficking, in other countries customs hand over the investigations to the police (Belgium, Bulgaria, Czech Republic, France, Italy, Netherlands, Romania, Slovenia, Spain, Sweden). Yet in other countries, customs handles initial investigation and then hands over the case to the police (e.g. Germany). If a country has a federal structure, federal and regional police would have different competences in investigating illicit trade in cultural goods, based on the type of the crime and where it has occurred. In addition to the police and customs, some countries have a special body charged with the protection of cultural heritage (e.g. Estonia, Netherlands, Slovenia, Sweden). Such bodies are commonly established within the Ministry of Culture and may have a supervisory function in relation to law enforcement in the field of all crimes against cultural property (e.g. destruction, damaging, looting, theft). While the various organisational arrangements may present difficulties or benefits in combatting illicit trade in cultural goods in individual countries, they are not pertinent to this type of crime only. In this section, we look at the practical issues of law enforcement, including customs, specifically relevant for trafficking in cultural goods.

4.1.1 Monitoring the market

While in some instances investigations into trafficking of cultural goods are opened following reports from witnesses or victims or confidential information given to law enforcement, **monitoring the market online and offline is a large part of the police work**. This is due to the fact that illicit trade in cultural goods is often (seemingly) a 'victimless crime' (see text box in Section 3.3.2), and illegal excavations and trafficking often happen without complaint or without witnesses.

Many interview partners mentioned monitoring of the market as an important element of detecting illicit trade in cultural goods (Belgium, Bulgaria, Czech Republic, Cyprus, France, Italy, Netherlands, Norway, Romania, Slovenia, Spain, Sweden). An exemplary and comprehensive approach to the market monitoring is taken by the Command for the Protection of Cultural Heritage (Comando dei Carabinieri per la Tutela del Patrimonio Culturale, TPC, further referred as Italian Carabinieri). Due to the large number of officers they have dedicated to this topic, the Italian Carabinieri have a specialised IT unit for searching the web staffed by several officers who check internet markets full-time with the help of a specially developed tool. In addition, Carabinieri officers visit physical dealerships and markets (even flea markets).

Most other national police forces **cannot afford such extensive and comprehensive checks due to the lack of resources** (money and staff, see in more detail in Section 4.3), even though they consider them necessary. In most cases, web crawlers are not in use, and police officers check the relevant websites manually on a daily basis (Germany, Italy), which limits the number of websites that can be checked. Some of them still manage to check the dark web (Estonia, Germany, Latvia). A few interview partners said that they do not have the capacity for systematic monitoring of Internet antiquities sales and only check relevant online marketplaces when they receive information that indicates illicit goods are being offered online (Belgium, Cyprus, Norway). Some interviewees explained that there is no use in intensifying the web monitoring because they do not have the human capacity to process the information and follow up on it (Belgium, Spain).

Police checks of offline stores and markets in some countries is only possible upon a prior notice. Competence does not always lie with a trained police officer, but, for example, can be the exclusive competence of a legal officer of the ministry of culture. This may lower the effectiveness of such on-site visits.

Recommendation: More resources should be invested to further study and understand the phenomenon of illicit trade in cultural goods. Many aspects that remain contested need to be further investigated. More solid evidence should be produced, also through convictions in court.

4.1.2 Law enforcement expertise

In the following, we elaborate on the different items that were raised by law enforcement stakeholders.

Specialised units in police and customs, specialised prosecutors

Not all national law enforcement agencies have a dedicated or specialised unit dealing with cultural property crimes (including illicit trade in cultural goods). While many national police forces currently have one, customs rarely have such unit, and public prosecutors specialised in cultural crimes are even more rare.

Among the surveyed countries, four groups can be distinguished with regard to the presence of a specialised unit within the police forces:

1. Countries with a long-term established specialised police unit, (more or less) stable in size (e.g. Italy, Romania);
2. Countries that have a specialised unit, but its size has been reducing in recent years (e.g. Belgium);
3. Countries that had a specialised unit in the past, but it has been (recently) dismantled or discontinued after officers retired (e.g. Switzerland);
4. Countries that have a recently established specialised unit within the police (e.g. Sweden).

Table 6 provides an overview of the way in which countries organised their efforts in the combat against illicit trade in cultural goods. (Not all countries provided information.)

Table 6   Specialised units combatting illicit trade in cultural goods

PO = Police, CU = Customs	Police		Customs	
	Special unit	FTE	Special unit	FTE
Austria	Yes	3 full, 1PT		
Belgium • The special unit decreased from 7 FTE in 2001	Yes	1	No	
Bulgaria	Yes	20	No	
Czech Republic	No	16		
Estonia			No	
Germany • Police FTE only refer to Baden Württemberg. The customs unit has no specialised officials, it is mainstreamed	Yes	3	No	
Italy	Yes	300+		
Latvia		3	No	
Norway • Both the specialised police and customs units also focus on other illicit domains (i.e. wildlife trafficking)	Yes	1	Yes	10
Romania	Yes	50		

PO = Police, CU = Customs	Police		Customs	
	Special unit	FTE	Special unit	FTE
Slovenia	No	1 (8PT)		1PT
Spain	Yes	20		
Sweden • Seven cover both wildlife and cultural heritage	Yes	10		

PT = part-time

Whether a country has a **specialised unit seems to be linked to how high illicit trade in cultural goods is on the political priority list** (see Section 3.3.2). Countries with a long-term, established, specialised police unit also have a strong commitment to the protection of their cultural property and often are source countries (i.e. countries wherefrom many illicitly traded goods originate). In countries where a specialised unit was dismantled or reduced in size, illicit trade in cultural goods and other cultural property crimes are not among the top priorities, and the relevant staff were relocated to organised crime or counter-terrorism. This leads to the loss of expertise, databases, contacts and the creation of gaps in international law enforcement networks (see more details in Sections 4.1.3 and 4.3 below).

The specialised units may be organised in different ways depending on the administrative division of a country. Some countries have regional specialised units (e.g. Germany), some combine these with a central unit (e.g. Italy, Romania). Most have one central unit (e.g. Austria, Belgium, Norway, Spain, Slovenia). Some of the specialised units work exclusively on cultural property crimes (e.g. Austria, Belgium, Germany, Italy, Spain), while others deal with any type of illicit goods (i.e. narcotics, firearms, for example, in Norway) or with organised crime (Bulgaria). This seems to depend not only on political priorities, but also on the size of the country (i.e. smaller countries are more likely to 'bundle' competences) and, possibly, on the perceived frequency of this type of crime. This means that in some units only a few or one officers work full time on cultural property crime or a few officers may work part-time on this type of crime, depending on workload. Where there are specialised units at national customs, they are often in charge of other crimes as well and the officers work part-time on illicit exports-imports of cultural goods. Table 26 provides an overview of police and customs officers working full or part-time in specialised units in different countries.

Law enforcement officers working in specialised units have not always been educated in archaeology, art history or other relevant subjects. Many interviewees pointed out that this special education is not necessary as they can rely on external expertise (e.g. Italy, Spain, Switzerland; see further below). It is important to be a good investigator and have a certain sensitivity and interest in the topic. One acquires operational experience and learns on the job; increasingly various training opportunities are provided by national Ministries of Culture and/or by international organisations and networks (see Sections 4.2 and 4.4.7). At the same time, a few interviewees who are trained archaeologists/historians pointed out that it is important to have a dedicated team of experts on this issue because it requires an expert's eye to assess cases of illicit trade in cultural goods (e.g. Bulgaria, Estonia, Germany, Romania, Sweden). Regular police officers have a different approach, and their

lack of knowledge on this specific issue causes ineffectiveness and inefficiency. One interviewee went on to complete a degree in art history after joining the specialised police unit (Norway).

Many interviewees emphasised the **importance of a specialised unit at all stages of law enforcement, from investigators to public prosecutors and even criminal judges**. The applicable law is complex, and, if involved law enforcement officers are not adequately trained, investigation, prosecution and court proceedings take a lot of time and effort because everyone needs to 'learn the ropes'. The public prosecutor as a link between the police and judge plays an extremely important role, and their expertise could make or break the case. Several interviewees explained that even though there are no officially designated public prosecutors in their countries, there are prosecutors who have acquired expertise on the job, and they have become preferred persons to approach with cases of illicit trade in cultural goods. Also, in some locations, such specialised prosecutors have appeared in recent years (e.g. Munich in Germany, Cyprus), which reflects a growing number of cases in the respective countries.

Recommendation: Countries should invest in developing the expertise of law enforcement officers at all stages of criminal justice responses, from customs and investigators to judges. This should be done by setting up a specialised unit (following INTERPOL's calls for all Member States, INTERPOL 2016) and by providing regular special training to the staff.

Rotation of staff and retention of expertise

Several interview partners (e.g. Netherlands, Switzerland) mentioned the importance of having a long-term specialised unit in law enforcement **to accumulate and retain knowledge, intelligence and expertise in cultural property crimes** (including illicit trade), **to create own networks and to build up and maintain trust with informants and colleagues in other law enforcement agencies**, especially from other countries. This usually requires years, especially in case of confidential informants. In some countries, police officers have to rotate on a regular basis; in other countries, retired specialists are not replaced, and units are dismantled. This leads to irreversible loss of knowledge, intelligence and expertise within the police and a gap in the national and international networks of law enforcement.

Recommendation: In recognition of the complex nature of illicit trade in cultural goods, which requires special expertise to deal with provenance and authenticity issues, rotation of experts should be discouraged, and longer-term posts encouraged.

Attraction of external expertise from museums and researchers

When special expertise in identifying and authenticating cultural goods is necessary, most interviewees (e.g. Czech Republic, Latvia, Spain, Romania) report **good collaboration and reliable support from museums, universities and researchers**. Academics work both with the police and customs **to identify cultural goods correctly, to attribute them or check their provenance, establish their value and origin and also to provide training**. Academics may be involved in the inspections of goods and premises or only consulted for desk-based research (e.g. on the basis of photographs). However, a few interviewees stated that sometimes researchers are reluctant to get involved in these cases because it might be dangerous for them if they act as a witness in a court case.

The cooperation with academics is organised differently across countries. In some countries, law enforcement can approach academic institutions and museums and request their expertise directly and on an ad hoc basis whenever they come across anything suspicious and need help (e.g. Germany, Norway, Slovenia). In other countries, such requests have to go via the national Ministry of Culture (e.g. Romania, Switzerland), which has been flagged as problematic. The requests via the Ministry take more time than direct requests, and sometimes less appropriate experts may be assigned to work on the case because the ministry staff is not well trained to recognise the needs of the investigation. In a few countries, there are academic experts working at the specialised police units on a part-time basis (e.g. Czech Republic). Academic and museum experts are more likely to be called upon to identify, authenticate and value seized material than they are to monitor the market or help investigate trading networks.

Recommendation: Collaboration with outside (academic) experts should be encouraged, especially archaeologists. Funds should be made available to facilitate contributions from outside experts. This could take the form of a part-time position.

4.1.3 National data collection

Not every country surveyed systematically collects data on illicit trade in cultural goods, of which a national database of stolen/ lost cultural property is one form. The accessibility of such databases may differ across countries. An overview of different databases used by Member States is presented in Table 27 below.

Table 7   Databases and accessibility

Country	Type of database			Accessibility		
	Lost/stolen goods	Goods that are prone to illicit trafficking (illustrative)	Confiscations and attempts to illegal sales	Open to public	Open only to law enforcement	Open only to national law enforcement
Austria	Yes					Yes
Belgium	No					
Bulgaria			Yes			Yes
Czechia	Yes		Yes	Yes**	Yes**	Yes**
Cyprus	Yes			Yes		
France	n.d.	n.d.	n.d.			Yes
Germany *Baden Württemberg*	Yes					Yes*
Norway	No					
Italy	Yes			Partly	Partly	Yes
Latvia		Yes		Yes		
Romania	Yes			Partly***		Yes***
Slovenia	Yes			Yes		
Spain	Yes					Yes
Sweden	No					

* Database is only accessible to police stations with specialised unit

*** Database is only accessible by police, but part of it is available on the police website. Customs can get access upon request.

** Full database is available to national police. Restricted database can also be accessed by relevant Ministries, the National Heritage Institute, National Galleries, customs (also from surrounding countries Austria and Germany). The public can see information about an object online, without any criminal information.

The challenges of compiling national statistics were discussed in Section 3.3.1, but here more practical difficulties and obstacles should be mentioned. One of the most obvious is that the law enforcement agency does not have **competences** (i.e. this is not within their tasks or mandate) **to compile statistics**, especially if there is also no specialised unit. **Insufficient resourcing** (i.e. funding and staffing) is another problem: where the specialised unit consists of only one officer, this officer does not have time to create and maintain a database. One more reason is the disappearance of specialised units or

reduction of their size: in such cases, the maintenance of databases is often discontinued. Some interviewees related that, even though their units are understaffed, or they are not tasked with creation and maintenance of a database, they do so in addition to their duties in order to have some data available (e.g. Belgium). Such efforts, commendable as they are, result in fragmentary data collection on cases of illicit trade, and data are not reported to INTERPOL/Europol.

The database by the Italian Carabinieri, 'Leonardo', was mentioned repeatedly by the interviewed police officers as a good example of how a database should function. A part of the database (20.000 objects) is online and is accessible to the public; a much larger part is not publicly available (in total, the database records over 6,2 million items). The database is only available in Italian, while requests for searches can also be made in English. The Italian Carabinieri are less selective of the items they include in their database and collect any type of information: not only photos, but also descriptions without photos, partial descriptions etc. This is because they get information not only from museums that document their items well, but also from small churches, private persons, etc. that do not have inventories. In line with this approach, the Carabinieri also work differently with the collected information: the database is used as a starting point of an investigation, rather than a checkpoint to determine whether a cultural good was stolen or not.

Recommendation: in addition to recommendations on data collection and databases in Section 3.2, customs and law enforcement should be tasked with systematic data collection and creation and maintenance of a database. They should be granted sufficient resources for these tasks.

4.1.4 National cooperation

Inter-agency cooperation

Investigation and prosecution of cases of illicit trade in cultural goods often requires cooperation of different national agencies. Indications of trafficking may be found by customs which may or may not conduct an initial investigation, which is then handed over to the police for in-depth investigation. Later, a public prosecutor may get involved to bring the case to the court. At various stages of investigation, data and information sharing between the relevant agencies is critical, as well as transfer of expert knowledge, common strategical and operational planning and supporting criminal justice responses by executing or responding to requests.

Not all countries can report a good cooperation between different national law enforcement agencies when it comes to combatting illicit trade in cultural goods. In some Member States, **communication flows are ineffective**, also **due to the lack of a single point of contact or of a specialised unit**, and **information exchange is irregular**. In some countries, police agencies and customs work in silos, rarely coordinating or meeting with each other. This hinders the effective understanding of the phenomenon of illicit trade in

cultural goods nationally and internationally. Often, **the police do not have access to databases compiled by the customs and vice versa**. In countries with a federal structure, regional police without a specialised unit may not have access to central databases of lost and stolen cultural goods. As a result, different law enforcement agencies are not aware of activities undertaken by their sister organisations. A few interviewees stated that international (inter-agency) cooperation was better than with the national customs or police. Another interviewee illustrates:

> *"In [our country], there is a huge problem in cooperation with customs. There's good cooperation with the border police, but [cooperating with] customs is difficult, [as the] sharing of information is not very good. Customs activities and seizures are not shared with the police. Customs and police do not have access to each other's databases."*

The study team shares this observation as we found it very difficult to involve customs representatives in this study and obtain relevant information from them: we experienced a low response rate to the survey and have been able to carry out only a few interviews.

The **lack of specialised units** within law enforcement agencies poses a **special problem for such cooperation**. For instance, several interviewees have indicated it is **difficult to cooperate with public prosecutors because the topic is too specialised**, and prosecutors in their country handle all types of cases and are not able to grasp the importance and complexity of trafficking in cultural goods cases when one is brought to them or when advice on an investigation is needed.

In some countries, national cooperation across various law enforcement agencies is effective and regular, facilitated by (semi)formal structures that ensure that different authorities can easily keep in touch. In Spain, there are customs officers attached to some of the police units (they may even have an office in the police department), which ensures a direct communication line between the two agencies. A Norwegian officer explains: *"Cooperation with customs is smooth. [Police] and customs have weekly meetings, and information is shared by both parties"*. Although the Norwegian police, prosecutor office and customs do not share an information system, they have established a strong network which allows them to exchange information easily. A similar informal cooperation platform was mentioned by a Belgian law enforcement representative who indicated how useful and important the discussions on trafficking trends, ongoing investigations and legal framework within this professional environment are.

Some Member States have established **national cooperation fora**, which include not only law enforcement, but other relevant stakeholders as well. For instance, Cyprus has established a national committee, meeting every few months, that consists of the Department of Antiquities, the Ministry of Foreign Affairs, the Ministry of Culture, customs, police, church representatives, and legal services (public prosecutor). The public prosecutor attending the committee, although not a specialised unit at the beginning, has developed the necessary expertise and has become a de facto specialised prosecutor. The Dutch Cultural Heritage Inspectorate works closely with the Dutch Customs and signed a framework agreement with them delineating each other's role, tasks and responsibilities.

The Inspectorate provides training and education to customs officers on an ongoing basis. Together, they have created a risk analysis template to recognise illegal imports and exports of cultural goods. In some countries, meetings between the various stakeholders take place regularly (Austria, Cyprus, Norway, Sweden) or on an ad-hoc basis (Slovenia). Generally, the information exchange across stakeholders on the national level is perceived to be an effective way to strengthen and maintain the network and helps to coordinate activities.

Relationships with the industry

In the absolute majority of the countries surveyed for this study, there is no dialogue or

> *Recommendation: Each country should set up a process in which all relevant national authorities can meet on a regular basis (frequency depending on the number of illicit transactions, e.g. from once a month to twice a year).*

cooperation fora that involve industry stakeholders, like art and antiquities dealers, auction houses, collectors etc. A few law enforcement representatives explained that auction houses are not willing to cooperate with the police.

Some countries do engage with the industry on illicit trade questions. The Cultural Heritage Inspectorate of the Dutch Ministry of Culture organises regular meetings with industry associations to discuss relevant issues (for example, how to handle provenance issues). The Inspectorate states that it is crucial that different stakeholders (from government, museums, traders) and different countries are aligned in their approaches to fight trafficking in cultural goods. Regular consultations help achieve this goal at the national level. Belgian police indicate they have a similar approach, hosting an informal information exchange with Ministries, museums, archaeologists and other experts. In the Netherlands, police have a good working relationship with the association of dealers in ancient art (Vereeniging van Handelaren in Oude Kunst in Nederland, VHOK). The Dutch police regularly makes use of the expertise of members of the VHOK in order to establish the authenticity, origin and value of items. Members of the association have also provided their expert opinion during the Cyber Patrol action as part of Operation Pandora III.

Transparency of the art and antiquities market
Due to the lack of transparency[56], culture of discretion and the resulting lack of insight and understanding in what is going on in it, the art and antiquities market is a difficult subject for monitoring, policing and regulation (Yates 2016b). Improving relationships between the market and the law enforcement through outreach and cooperation (Gladstone and van der Meulen 2018) is one possible measure, whose effectiveness will differ across countries and may be relatively low overall. One of the reasons for this is the art and antiquities market is amorphous: because art and antiquity dealership is not a registered trade, anyone can be one. While high-end dealers and auction houses are known to everyone, they are just

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[56] One researcher referred to it as "historical lack of transparency" (Dempster 2014).

the tip of the iceberg. The exact numbers of dealers active on the market—the target audience to get engaged—are unknown. To improve this starting point, some researchers (Gladstone and van der Meulen 2018) suggest that (stricter) registration obligations should be introduced for art and antiquities dealers as well as regular checks of their books.

Another measure to enhance transparency is to improve due diligence by art and antiquities dealers. Due diligence describes the process of search and discovery undertaken by a prospective buyer before agreeing to a purchase (Prott 1997). Some trade organisations offer due diligence guidelines for their members, but some of the guidelines simply restate recommendations about what should constitute ethical business practice, rather than providing a thorough account of necessary procedure and evidential standards. Until recently, none of the guidelines contained a requirement to establish a full documentary account of legitimate provenance from the time of an object's modern discovery, thereby ensuring an object was not stolen or trafficked.

Throughout the 2000s, due to the abuse of cultural goods for insider trading, tax evasion and money laundering and the link to terrorist funding, public confidence in the propriety of the market was undermined and questions were being asked about the need for regulation to improve market transparency (Reyburn 2015; Macquisten 2016). With these concerns in mind, the **Responsible Art Market Initiative** (RAM) was formed in Geneva in 2015 as a trade initiative with the support of academic legal specialists[57]. It has developed a systematic due diligence 'toolkit' and a set of guidelines to guard against money laundering and terrorist financing. For a prospective transaction, the due diligence toolkit describes checks that should be made into the client, the object, and the transaction itself, with an emphasis throughout on producing a documentary record. While such guidelines point towards the increasing salience of due diligence for market actors, their effectiveness is limited as they are not mandatory and they do not require to make information available to external actors.

Building upon Article 10(a) of the 1970 UNESCO Convention, another potential measure to increase market transparency is the creation of a database of information regarding transactions and provenances as recommended by the European Parliament (2018) in the context of fighting the terrorism financing through the illicit trade in cultural goods. Another European Parliament's report on cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars (2019a) went further when it recommended a number of measures, including the clarification of the notion "due diligence" at the EU level and the creation of a "meta-database" that will record all available information on the cultural item obtained from all available sources. Practical realisation and implications of such suggestions need to be considered carefully, especially in the light of past experiences. An attempt to establish a meta-database in the UK had to be abandoned over the large cost, concerns about long-term sustainability and disagreement about the purposes of the database (i.e. closed database for crime

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[57] For the documents of the initiative see http://responsibleartmarket.org/art-market-guidelines/ .

investigation v open database for due diligence) (Bailey 2003; 2005b). Currently, the enormous amounts of information due to the large numbers of objects sold online and the speed of transactions will present an additional challenge.

At the same time, some of the interviewed representatives of art trade associations are strongly in favour of intensifying the dialogue between the trade and the authorities. Industry representatives perceive a strong confrontation both from the side of the authorities and academics when it comes to the existence and the exact nature of illicit trade in cultural goods.[58] A representative from ADA refers to the United Kingdom as a good example of effective cooperation between law enforcement and the art trade (although this is disputed by other interviewees):

"We have always had good contacts with the Metropolitan Police's Art and Antiques Squad. A few years ago, after news articles appeared in the press saying that shipments of illicit antiquities from Syria were appearing in the UK, [we] set up regular exchanges with law enforcement so we could find out what was actually going on rather than reading stories in the press that turned out not to be true. Close communication and cooperation with law enforcement has been useful. The UK trade consist of a network of people who are familiar with each other and are keen to signal things that can be addressed internally without drastic measures being taken. Information sharing and a good relationship with law enforcement benefits both the trade and the police."

Recommendation: To facilitate a better interaction with the industry, transparency obligations should be imposed on dealers in cultural goods (see relevant recommendations in Section 3.4.2.), which are also likely to improve the industry's reputation.

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[58] A representative from IADAA indicates: "*The relationship between the art market and archaeologists and museums is rotten, there is a lot of antagonisation and politicisation of the positions. This was not the case 30 years ago: in the past art dealers would bring items they have to museums for advice, museums would welcome [them being] the 1st choice of the item for sale. Now archaeologists are looked down at if they work with or for private clients and, in some countries, they may lose their jobs [as it is argued this shows a] lack of integrity. For example, in Germany members of archaeological associations are not allowed to consult private clients.*"

4.2 Cross-border criminal justice responses

4.2.1 International inter-agency cooperation

4.2.1.1. International level

At the international level, cross-border cooperation in combatting illicit trade in cultural goods is encouraged, facilitated and coordinated by INTERPOL, WCO and UNESCO.

For criminal law enforcement, internationally, **INTERPOL** is probably the most important platform for cooperation. Its three relevant functions are: (1) liaison point, (2) communications support and (3) database assistance. Through INTERPOL, police officers obtain contact details of a foreign counterpart, which speeds up the work processes. It opens direct communication channels avoiding the need to go via embassies and ministries in order to reach the competent authority. INTERPOL maintains a specialised database in which lost and stolen cultural goods are recorded following respective reports from INTERPOL member states; an improved database ID-ART focusing on Europe will soon be launched (for more details see Section 4.2.2). It issues alerts of most wanted cultural items on a regular basis. INTERPOL also provides operational support (communication and coordination) for joint operations planned by several countries, also in collaboration with other international organisations.

Interviewees for this study generally perceive INTERPOL to be highly effective. INTERPOL has been involved in combatting illicit trade in cultural goods for a long time (for instance, its database was established almost 25 years ago), and it has a team of people working on this topic with rich expertise. The interviewees emphasise the **global outreach** that **INTERPOL's network** provides, which is crucial for fighting cross-border crime and international organised crime. Furthermore, the **data shared** by INTERPOL are perceived to be relevant. However, they are only as good as the data that are reported to INTERPOL by its member states, as accurately pointed out by one interviewee. Most interviewees stated that, when investigating a cultural property crime, they prefer to work directly with the specialised unit or responsible officer in the foreign country, and the INTERPOL network allows them to **identify the competent person quite effectively**. It is especially useful in the case of a first-time contact with a foreign country (in the EU's context: a non-Member State).

At the same time, a few interviewees mentioned that INTERPOL's system is not always effective: "*It happens [that] answers to questions asked [are] delayed for months, sometimes they do not come at all, and in other cases one and the same information is sent several times.*" Another problem mentioned is that classified information cannot be exchanged.

Whereas criminal police agencies are supported by INTERPOL, customs authorities across the globe are supported by the **WCO**. Since 2015, the WCO has become more engaged in combatting illicit trafficking of cultural objects. The increased efforts were spurred by the destruction and pillaging of cultural heritage in West and Central Africa and in the MENA region. The WCO provides a specialised platform (ARCHEO) through which customs

agencies can securely communicate, which is considered to be useful by the customs officials interviewed for this study. The WCO also develops and organises **trainings for customs officials** on how to deal with (potentially illicit) cultural goods[59] and supports customs officials with analysis and **operational assistance during joint action days**.

As the international organisation advancing cooperation in the cultural domain, **UNESCO** is a pioneer of the fight against the illicit trade in cultural goods. UNESCO prepared the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and requested UNIDROIT to develop the 1995 **UNIDROIT** Convention on Stolen or Illegally Exported Cultural Objects.

1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

The 1970 Convention is the first international legal instrument for the protection of cultural property during peacetime. It addresses three issues (Schneider 2016): (1) prevention of trafficking in cultural goods at the national level; (2) restitution of trafficked cultural goods; and (3) cooperation among states.

Article 1 of the Convention defines "cultural property" as comprising objects important for archaeology, prehistory, history, literature, art or science. Article 5 introduces preventive measures including the drafting of laws and regulations designed to prevent illicit import, export and transfer of ownership of important cultural property (Article 5(a)) and the establishment of a national inventory of protected cultural property (Article 5(b)). States Party can introduce mandatory export certificates (Article 6), monitor trade in cultural goods, impose penalties or administrative sanctions (Article 8), promulgate rules of ethics for those who deal in cultural goods (Article 5(e)), and organise educational measures to raise awareness (Article 5(f)). States Party can also oblige dealers to maintain a register recording the origin, description and price of cultural goods, names and addresses of suppliers, and to inform purchasers of the cultural goods of the applicable export prohibitions (Article 10 (a)).

The Convention is not retroactive. Article 7 (b)(ii) makes provision for the return of cultural objects stolen from an inventoried collection of a museum or similar institution, but only if those objects were imported into a State Party after the Convention entered into force in both State Parties involved. The recovering State Party must pay just compensation to a dispossessed person who had valid title to an object acquired through good faith purchase.

Article 9 allows a State Party whose cultural heritage is being actively plundered to call for the help of other State Parties in controlling the trafficking of plundered objects.

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[59] See the recently developed Training Handbook on the Prevention of Illicit Trafficking of Cultural Heritage (PITCH).

The 1970 Convention is considered a standard setting instrument as it has enabled the alignment of relevant national legislation in many countries and guided the development of further legal and normative mechanisms to tackle the problem of illicit trade (Prott 2012). At the same time, there are several shortcomings of the 1970 Convention that limit its effectiveness. It lends its primary protection only to already discovered and inventoried objects, not to those that are undiscovered, unexcavated or unregistered (Veres 2014; Prott 2012). It imposes a time constraint on restitution claims (i.e. only for objects imported after the Convention entered into force), and only a few states have implemented the 1970 Convention in such a way as to allow for retroactivity (e.g. Australia; Prott 2012). It does not harmonise national rules on limitation periods or for the protection of a good faith purchaser (Schneider 2016; Prott 2012). It restricts acquisitions only for museums, not for private individuals (UNODC 2009). Most importantly, however, is the absence of any mechanism to ensure full implementation of the 1970 Convention by an acceding state. Implementations have exercised considerable discretion, which is permitted by the convention (see overview by Gerstenblith 2017), and varied from countries such as Switzerland, which adopted comprehensive domestic legislation, to others such as the United Kingdom, where no new law was thought necessary. Accession to the 1970 Convention has been very slow, with some of the large market states ratifying and transposing it fairly recently[60].

UNESCO is continuously working on improving the international legal framework and its effective and consistent implementation in participating States. UNESCO hosts two committees to this end: the Subsidiary Committee of the Meeting of States Parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property[61] and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation[62]. The Subsidiary Committee was established in 2012 and reviews national reports on the implementation of the 1970 Convention, shares good practices and recommendations for the implementation of the 1970 Convention, identifies challenges related to the implementation and informs the State Parties of implementation activities. The Subsidiary Committee prepared a set of operational guidelines which were adopted by UNESCO in 2015[63]. The guidelines enlarge upon and should be read in conjunction with the text of the 1970 Convention. The Subsidiary Committee also coordinates measures for capacity-building with the Intergovernmental Committee on Return and Restitution. The latter committee facilitates bilateral negotiations and promotes multilateral and bilateral cooperation related to return and restitution of cultural property, encourages thematic research and public information campaigns, and guides UNESCO's activities with regard to the restitution or return of cultural property.

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[60] For example, Belgium and the Netherlands ratified the 1970 Convention only in 2009, and Germany – in 2007.
[61] For more information see: http://www.unesco.org/new/en/culture/themes/illicit-trafficking-of-cultural-property/subsidiary-committee/ .
[62] For more information see: http://www.unesco.org/new/en/culture/themes/restitution-of-cultural-property/#c163842 .
[63] For more information see:
http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/OPERATIONAL_GUIDELINES_EN_FINAL_FINAL.pdf .

UNESCO also provides training to various stakeholders—often in cooperation with the EU—including law enforcement and industry, develops emergency measures for cultural property in crisis, and creates initiatives to raise awareness on the topic of illicit trade in cultural goods.

1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

The 1995 UNIDROIT Convention is intended to complement and improve on the 1970 UNESCO Convention, establishing an effective framework for returning cultural property to its rightful owners and reducing the profitability of illicit trade (Love Levine 2011). By contrast to the 1970 Convention, the 1995 Convention allows only a few reservations, as expressly stated in the convention's text: upon ratification, State Parties are obliged to implement all provisions (Article 18). As a result, uniform national laws can be created based on the 1995 Convention, reducing inconsistencies and conflicts of law (Love Levine 2011). To this end, the convention focuses on issues of civil law, and is intended to remedy perceived deficiencies of the 1970 UNESCO Convention concerning limitation periods and the rights of good faith possessors.

The 1995 Convention applies to all cultural objects, including undiscovered, unexcavated and unregistered, and does not differentiate between designated important items and other items (Article 1).

Article 3(1) of the Convention states simply but forcefully that 'The possessor of a cultural object which has been stolen shall return it', thus overcoming the potential claim to good title of a good faith possessor. Article 3(2) makes clear that for purposes of the Convention the term 'stolen' applies to objects that have been illegally excavated or "lawfully excavated but unlawfully retained". Article 5 makes provision for the return of illegally exported cultural objects, provided their removal has significantly impaired the material integrity of an object or its context, or its use by a tribal or indigenous community.

By contrast to the 1970 Convention, the 1995 Convention allows both States Party and private parties to bring restitution claims. States Party can bring claims regarding stolen and illegally exported cultural goods, and private parties (i.e. dispossessed owners) can bring an action before competent foreign courts only in respect of stolen goods (Schneider 2016; Love Levine 2011).

Articles 3(3), 3(4) and 3(5) establish limitation periods of three years for specific claims and an absolute time limit of 75 years.

A good faith possessor may be ordered to return an illegally exported cultural good, but may enter into an agreement with the requesting state to retain ownership or to transfer ownership to a person residing in the requesting state (Article 6(3)). A good faith possessor is someone who "neither knew nor ought reasonably to have known" that the object was stolen (Article 4(1)) or illegally exported (Article 6(1)).

Such a possessor is entitled to a "fair and reasonable" compensation from the lawful owner of a returned cultural good, but only if he/she can prove that they exercised due diligence when acquiring the object (Articles 4(1) and 6(1)). The 1995 Convention explains what constitutes due diligence by listing its elements in an illustrative manner: all "circumstances of the acquisition" need to be considered (see Article 4(4) and 6(2) for the list of elements).

By making the compensation of a good faith possessor dependent upon adequate due diligence, it has been claimed that the UNIDROIT Convention could incentivise improvements in the business practices of the market in cultural goods and increase personal responsibility of dealers (Schneider 2016). However, the Convention fails to define what constitutes "fair and reasonable" compensation for a good faith possessor, and the need to pay compensation might deter claims for recovery and thus limit the Convention's effectiveness (Prott 1997).

The 1995 UNIDROIT Convention is intended to complement the 1970 UNESCO Convention. Yet while it rectifies many of the shortcomings of the 1970 Convention and has the clear potential to create an effective international legal framework for combatting illicit trade in cultural goods, it has not been very successful. To date, only 46 countries (of which 15 are EU Member States) have ratified it. The main obstacle to ratification seems to be its "all or nothing" approach, meaning the requirement to implement all of its provisions with no possibility for reservations (Love Levine 2011). Ironically, this approach is one of the main strengths of the convention which ensures the creation of a uniform legal framework across States Parties. Another reason why few countries have ratified the 1995 Convention might be commercial opposition in the large market states (most current States Party can be considered sources countries; see Cottrell 2009).

International organisations coordinate and support global joint efforts by police and customs agencies in the form of joint action days or operations. A recent example is *Operation Athena* during which INTERPOL, UNESCO and the WCO worked together with more than 80 countries to combat trafficking of cultural goods. In addition to being a direct effort to counter trafficking and to take illicit objects off the markets, joint operations promote structured cooperation between police and customs authorities. As one interviewee indicated:

"This cooperation is crucial to ensure that the seizure of an object at the border eventually results in a conviction. Whereas the seizure is the task of customs, bringing the case to court is the in most countries, the responsibility of the police and, therefore, cooperation between the two is crucial. If cooperation is lacking, criminals get away."

2017 Council of Europe (CoE) Convention on Offences relating to Cultural Property (Nicosia Convention)

The 2017 Nicosia Convention intends to complement the international system of protection of cultural property by focusing on the illicit trade in cultural goods and

by bringing national criminal law responses of States Party to the same standard. Its development and adoption were driven by the growing connections between organised crime and terrorism to the trafficking in cultural goods and by the increasing role of modern technologies in the illicit trade (CoE 2017). It aims to close the existing loopholes that have allowed various actors in the illicit trade to remain undetected and unregulated.

The objective of the 2017 Convention was to protect the most precious cultural property, namely items that have been granted a certain status by the States Party to this convention or to the 1970 Convention (Article 1; CoE 2017; Fincham 2019; Brown 2017). Therefore, states need to classify, define or specifically designate items of movable or immovable cultural property that enjoy protection. (Immovable property is a specially designated building, archaeological site or other structures.)

The 2017 Convention's protection and effect extend beyond its States Party: States Party will have to enforce their criminal laws in relation to their "own" and to "foreign" cultural goods, if the latter were designated as important cultural property in accordance with the 1970 Convention (Bieczyński 2017).

States Party to the 2017 Convention need to criminalise certain frequent, concrete behaviours and practices that are characteristic of illicit trade and trafficking (Articles 3–11). These include theft and other forms of unlawful appropriation; conducting archaeological excavations without authorisation and unlawful removal of finds; illegal imports and exports; dealing in and placing on the market of cultural goods with illicit history; falsification of documents and permits to create licit provenance; destruction or damage of cultural property. These criminal offences must be committed intentionally, which includes the cases when an offender failed to establish a proper degree of due diligence (Fincham 2019). The 2017 Convention introduces criminal liability of legal persons (e.g. auction houses, museums) for criminal offences committed for their benefit by anyone who is in a leading position of that legal person (Article 13).

National authorities of States Party shall be able to initiate criminal proceedings without requiring a complaint from a victim of an offence (Article 17). They are also encouraged to provide training for law enforcement officers for dealing with cultural property crimes (Article 18), to engage in cross-border cooperation and to facilitate mutual legal assistance (Article 19).

States Party are also invited to introduce preventive domestic measures (Article 20), such as publicly accessible inventories and databases, import and export certificates, due diligence provisions for art and antiquities traders and obligations to keep records of transactions, monitoring of suspicious transactions online. These domestic measures should be flanked by international efforts necessary to combat cross-border crime (Article 21), namely consultation and exchange of information, sharing or interconnecting national inventories and databases and engaging in cooperation to preserve and protect cultural property in conflict.

The 2017 Convention is a significant element of the international legal framework for combatting illicit trade in cultural goods as it complements and strengthens the existing system by addressing the problem of differences in national criminal laws (Bieczyński 2017). It takes a holistic approach to the problem treating illicit trade as a transnational phenomenon with illicit elements (Fincham 2019) and lends its protection to cultural property everywhere (Bieczyński 2017). While being a regional document of the Council of Europe, the 2017 Convention can be opened to non-Members of the CoE. After it has entered into force, the State Parties may decide to invite other country or countries to join the convention (Article 28).

Recommendation: To combat the cross-border crime of illicit trade in cultural goods, genuine international cooperation is of paramount importance. An essential element of it—for all countries—is the ratification and effective national implementation of the 1970 UNESCO Convention, the 1995 UNIDROIT Convention and, especially relevant in the context of criminal justice responses, the Nicosia Convention.

4.2.1.2. EU level

This section discusses institutional arrangements at the European level that support various law enforcement authorities in their efforts of combatting illicit trade in cultural goods.

EU Expert groups

There are a number of initiatives at the EU level to support customs authorities in detection of (potentially illicit) cultural goods and gathering and exchange of information. The European Commission has set up **EU Expert Groups** to facilitate coordination among customs agencies: namely the Expert Group on the return of cultural objects (DG GROW) and the Expert Group on customs issues related to cultural goods (DG TAXUD). Through these working groups, relevant national authorities are informed of trends and developments in other countries and at the EU level.

The expert group on the return of cultural objects exchanges best practices and experiences on the implementation of Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a Member State[64], while the expert group on customs issues related to cultural goods does the same in relation to the Council Regulation No 116/2009 on the export of cultural goods[65]. In the future it will also be dealing with the Regulation on the introduction and the import of cultural goods. The expert groups also serve as networks facilitating access to competent counterparts in other Member States.[66] They can also be a forum for developing expertise and sharing experience

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[64] OJ L 159 of 28.5.2014.
[65] OJ L 39 of 10.2.2009.
[66] For example, a Belgian customs official explained that through his participation to this group, he has become familiar with colleagues across different Member States which has helped him in the international cases he deals with.

on a particular matter, for example provenance research, when more focused working groups are created within.

A supporting **communication tool** in this field is the Internal Market Information system (**IMI**)—an IT-based platform for secure and fast information exchange between EU customs authorities of all levels. In relation to trafficking of cultural goods, IMI is used for sending various types of requests and tracking their execution, from requests for information and alerts to requests related to restitution of stolen cultural goods.

Europol

The long-term cooperation forum for criminal police **Europol** also supports law enforcement in fighting illicit trade in cultural goods. Europol's central tasks are (1) provision of expertise, (2) acting as information hub, including data gathering and analysis and communication assistance, and (3) providing operational support for cross-border investigations and operations. In contrast to INTERPOL, Europol first engaged with this topic only a few years ago. Currently, it has only dedicated limited capacity specifically to working on the topic and it does not have its own database. While INTERPOL seems to be a more preferable point of contact for many interviewees and serves as an important source of intelligence and communication, they see a **good potential for Europol to become an effective cooperation platform** in the fight against trafficking in cultural goods specifically within Europe. The advantages of Europol are that it can be used **to plan and conduct joint investigations and joint operations**, and it has developed and maintained processes and tools to support such activities (specifically, SIENA and EMPACT), including **tools for exchange of classified information**.

The Secure Information Exchange Network Application (**SIENA**) is a state-of-the-art platform hosted by Europol that allows for the **exchange of operational and strategic crime-related information** among Member States, Europol liaison officers and third parties (subject to respective cooperation agreements). Before a specialised database of lost and stolen art objects was launched (see below), Europol worked exclusively with SIENA to store and exchange information about stolen goods, and goods to be seized, frozen or confiscated in EU countries. SIENA is particularly useful because it is used for all types of crime within Europol's competence. This means organised crime and various trafficking crimes that may be relevant to trafficking in cultural goods as well are included and possible overlaps become visible. One of the limitations on the effectiveness of SIENA identified in the interviews lies in its different implementations in Member States, which are determined by national law enforcement structures. In some countries, only one officer in the national (central) department has access to SIENA. If a police officer from a local department encounters an illicit trade case and wants to reach his/her EU colleagues, this officer cannot do so directly and would have to go through the national contact point. This

Recommendation: When exchanging information related to cases on a bilateral basis, law enforcement officers should be obliged to use SIENA and to copy in the relevant Europol unit. This ensures a EU-wide overview and relevant cross-linkages between cases can be effectively made.

means at least one additional administrative layer and slower exchange of information, which may discourage operatives from using the platform and prevent valuable information to be recorded in the system.

Another Europol tool used by interviewees is the European Multidisciplinary Platform Against Criminal Threats (**EMPACT**). EMPACT serves as an ad-hoc **management** environment that fosters cooperation between law enforcement agencies, European agencies, European institutions and other relevant third parties. It is used for **planning and coordination** of various activities and operations: for example, Operation Pandora (see Section 4.4.4) was coordinated through EMPACT. A German interviewee explains:

> *"The platform brings different police departments of different countries together, which works very good for [our] department. EMPACT serves as a mediator and facilitates meetings when specific cases arise. Especially during cross-border investigations it is useful to organise an EMPACT meeting. Joint investigation teams ([which can be supported] by EMPACT) are the best way to work with other countries".*

At the time the interviews for this study were conducted, Europol had not yet installed a fulltime expert dedicated to the topic of cultural heritage crime. Hence, many interviewees indicated that Europol's involvement in the fight against illicit trade in cultural goods was limited. Since early 2019, Europol has installed a full-time officer to ensure continuity in combatting illicit trade in cultural goods and to establish a single liaison point for Member States. The position is a temporary one. The positive effect of this measure has become apparent already after only three months of its introduction: in this short time, the newly appointed officer received as many requests for investigations as Europol had received in the entire year of 2018. In the light of these results, making this post permanent and improving its resourcing is likely to increase the effectiveness of the Europe-wide fight against illicit trade in cultural goods.

Recommendation: The dedicated unit at Europol should be funded on a permanent basis and expanded to serve as a central supporting node to European law enforcement efforts in combatting illicit trade in cultural goods.

It is important that **Europol does not duplicate, but rather complement INTERPOL**, and it should specifically invest in creating a European network of law enforcement officers specialised in cultural property crimes, encourage direct connections and greater information sharing between them. This all may be achieved if the informal network of law enforcement authorities and expertise competent in the field of cultural goods (CULTNET) is formalised, as Europol could provide a secretariat or liaison officer for it.

CULTNET

CULTNET was set up in 2012 at the initiative of Cyprus for the purpose of preventing and combating cultural property crime. It shall be institutionalised with a permanent secretariat

in the (near) future.[67] Up until now, the network has been meeting (almost) every year, and its participants have found it very useful as illicit trade in cultural goods is such a complex, yet niche domain. As a Romanian expert summarises:

> *"In general, CULTNET can be perceived as a best practice. It is very helpful to be in direct contact with the law enforcement colleagues in different countries. It helps to have a direct contact point as this reduces the need for official papers for the cooperation to take place. Formalising CULTNET [with a permanent secretariat] as part of Europol will be very helpful".*

The interviewees identified several avenues for improvement of CULTNET, some of which may become irrelevant once the network is formalised. Being an **informal network**, as it stands CULTNET does not have its own funding or budget. A combination of the **lack of funding** and low prioritisation of illicit trade in cultural goods results in some countries not sending their representatives to attend CULTNET meetings. Member States have to bear the costs of participation for their policy officers attending CULTNET meetings; as combatting illicit trade in cultural goods is not a priority in most countries, they do not reserve money for this. The lack of funding also means that the network is not able to work in a sustainable way (for instance, by developing joint objectives, strategic and action points, follow up on them) and cannot produce tangible outcomes. Interested police officers have to work on the relevant issues in their spare time because they have no capacity to do so during their work time. This all reduces the effectiveness of the network. Currently the Dutch police provides funds for one police officer to develop a lasting working agenda for CULTNET.

The activity in CULTNET has been up to now very much **driven by the countries presiding over the informal network**, which is **linked to the EU Presidency and rotates every 6 months**. Because of this, the **network's activity depends on how high of a priority cultural property crime is for the presiding country, and the issues change often** depending on what the presiding country considers top priority (e.g. trafficking or forgery). Because of the lack of interest of some countries, the network was dormant for almost two years, but became reactivated two years ago. Some countries do not participate in CULTNET at all.

Recently, the network has been gathering the momentum: **countries are interested in a more permanent and structured entity**. CULTNET meeting attendance has been increasing, and the latest meeting in Romania in April 2019 saw representation from 20 Member States, the highest to date.

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[67] As per the initiative of the Bulgarian Council Presidency the 2017 Council of Europe ~~conventions~~ on Offences relating to Cultural Property.

> *Recommendation: Investigate the possibilities for establishing an EU Agency to deal with illicit trade in cultural goods. Such an agency would absorb CULTNET and focus on strategic issues. It should have its own budget and, potentially, fund an office at Europol.*
>
> *If no Agency can be established, CULTNET should be formalised as a permanent network for addressing strategic issues related to illicit trade in cultural goods. Building on the efforts of recent years, the aim should be to encourage participation by all EU Member States and interested third countries (e.g. Switzerland, Norway) through their specialised units.*

Eurojust

Eurojust serves as a platform for cooperation for public prosecutors across the European Union. Eurojust also aims to improve cooperation between authorities by **facilitating (judicial) assistance**, including Joint Investigation Teams. For ongoing investigations, Eurojust organises coordination meetings between law enforcement officers and public prosecutors of different Member States, assists in detection of persons relevant for the investigation and in gathering of evidence abroad. A representative from the Eurojust Italian desk indicates that cooperation between Member States works well; for his colleagues, cultural goods constitute a serious topic and are treated as such. Several police investigators also confirmed that support and contacts provided by Eurojust are useful in their cross-border investigations.

Regional cooperation

As direct contacts and good bilateral relations are important, it is no surprise that various law enforcement stakeholders also collaborate with neighbouring states in **regional cooperation structures**. Here, representatives from the government, law enforcement authorities, customs and researchers from one country collaborate with a similar group from another nearby country (for example, cooperation by Nordic countries). Tight regional cooperation may be of benefit due to common history (e.g. the Balkan countries), a defined and separate geographic location (e.g. Scandinavian countries) or shared challenges related to illicit trade (e.g. it was indicated that countries of Southern Europe are often source countries for illicitly traded goods, see Section 3.3).

One example of such cooperation is the **Southeast European Law Enforcement Centre (SELEC)**. Eleven countries[68] participate in SELEC with the aim to provide support and enhance coordination in the fight against (organised) crime in the region, in particular regarding trans-border activities. SELEC is supported by the US Federal Bureau of Investigation (FBI). A Bulgarian interviewee said that the Centre is very useful and was especially pleased with the information exchange and operational support provided by SELEC, which is organised via a system of liaison officers. A less formalised regional

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[68] Albania, Bosnia and Herzegovina, Bulgaria, the Former Yugoslav Republic of Macedonia, Greece, Hungary, Moldova, Montenegro, Romania, Serbia and Turkey.

cooperation is **the regular meeting of the Scandinavian countries** on the topic of illicit trade in cultural goods. A Swedish interviewee indicated that these meetings are very interesting and useful, partly because the Nordic countries share similar challenges regarding the types of goods that are being looted and traded (i.e. Viking objects).

Bilateral cooperation

Several interviewees highlighted the importance of having special **bilateral agreements with non-EU countries for international cooperation on cultural property crimes**. Without such agreements no cooperation is possible with certain third countries. Some of the European states conclude agreements with countries of origin or destination of cultural goods. For example, Switzerland has bilateral agreements regarding the import and repatriation of cultural property with Cyprus, Italy, Greece, Egypt, China, Colombia, Mexico and Peru. Such agreements allow for **mutual legal assistance and make the restitution of stolen cultural goods easier, but also facilitate legal trade**. One of the interviewees explains in what cases bilateral agreements are especially useful:

> *"It seems that this is the only effective option for cooperation between certain countries where there is a drastic discrepancy in domestic law with respect to demand and trade in cultural goods, [and in the] absence of not only double punishment but even of an administrative regime in one of the countries - usually the one that lacks rich cultural heritage."*

Another interviewee pointed out the **difficulty of negotiating relevant agreements for an individual EU Member State** and suggested that, because a united Europe stands stronger, the EU as a whole should negotiate them. An example is the EU-US Agreement on the procession and transfer of financial messaging data from the EU to the US for the purposes of the Terrorist Finance Tracking Program.

4.2.2 International access to information

Access to and exchange of data and information is a crucial element of a successful and effective cross-border cooperation in fighting illicit trade in cultural goods. Cross-border information exchange can happen in several ways. First, law enforcement from different countries could report to a central agency that would create and maintain a database of information. Different countries can then access this central database and retrieve the necessary information either directly or with the assistance of the database curator or owner. Second, a database could be created by a central agency through their own data collection. The database owner can then grant access to any interested parties, including to law enforcement. Third, law enforcement agencies could provide access to their own databases to their fellow law enforcement agencies from other countries (for example, on a mutual basis). Fourth, information could be provided via direct requests from one agency to another across the border. These requests may be of different kinds: they may refer to information that is contained in the database, but they may also refer to operative and other information. They may also be information requests in the absence of a database.

Databases range from police/agency-run to those run by a non-governmental organisation; from national to international; from closed databases to those that allow the general public to conduct searches. A closed database limits access to the members of the agency that is running it (e.g. police), so that other national authorities (e.g. customs) and foreign authorities would need to file an official request for information to access it. Among those open to the public, some databases can be accessed by citizens and traders directly and free of charge; other databases require a subscription or registration and, in some cases, a fee; yet other databases can only be accessed indirectly by sending a request for information to the agency running the database.

Access to international databases

Different international agencies and private and public actors have created and maintain databases in order to bring together information about illicit trade in cultural goods. The merits of databases as a technology in the fight against illicit trade in cultural goods are discussed in Section 5.1.1. In this section we will focus on the ease of use (i.e. the ease of entering the relevant data, the availability of access to data and information and the ease of access and search) based on the desk research and stakeholder interviews.

INTERPOL's **'Stolen works of art' database** was launched in 1995 in an effort to centralise the available information on stolen items and to ensure this information was circulated more widely. It contains a record of thousands stolen goods (51.000 as per 1 March 2018). It is fully dependent on the information provided by national law enforcement agencies for its completeness: entries in the database are made by INTERPOL based on notifications from Member States. **Not all Member States report all cases of stolen cultural goods to this database**. One of the reasons they do not that was mentioned by several interviewees is that **too many details are required to fill in the entry form**. One national law enforcement representative explains that the bar for the inclusion of an object into the database is set too high:

> *"Interpol includes in its database only those objects that are reported stolen and only upon demand from police forces from different countries. And only with good pictures, if there are no photos, they do not put it there. If they are not sure about the information provided, they do not put it in the database. They do not have a possibility to do investigations or to verify information."*

Another national law enforcement representative adds that the database is useful only "*when a cultural good is stolen from a public or private collection, for which there are good digital images, full description and dimensions, and a description of how the theft has occurred. For illegally excavated and exported archaeological objects and coins, the needed information cannot be submitted.*" The same is true for objects stolen from churches, smaller museums and other heritage sites if they do not have good inventories and photographs.

This leads to the INTERPOL database being of **very high quality, but it is incomplete and much smaller than the sum of national databases**. One interviewee remarked

that at this point the database mainly consists of Western European contributions, implying that the global coverage of the database is limited.

Another drawback is the **lack of interoperability with other (national) databases**, such that it is impossible to transfer information from a national database to INTERPOL's database. While this is a general problem of all existing databases, several interviewees noted specifically that the INTERPOL database would benefit from more enhanced integration with other national databases.

Access to the database is granted only upon registration (i.e. application to INTERPOL for a username and password). Free use of the system is provided to law enforcement authorities; and academics traders and companies legally dealing with cultural goods can have a subscription against a fixed fee. Interviewees indicated that the search function is useful and based on non-technical search terms. However, the INTERPOL database does not have an image-based search function and does not allow search parameters to be excluded.

The desire to improve functionalities of the INTERPOL database and to gear it more towards the needs of the European law enforcement has resulted in the development of the **Protection SYstem for Cultural Heritage (PSYCHE) and its follow-up ID-ART**. This joint effort by Interpol and the Italian Carabinieri (supported by the European Union), is ongoing but the first results are already operational.

PSYCHE allows law enforcement officials to insert, modify and delete information in the INTERPOL database via a specifically designed **web messaging tool**. Entries will be submitted via their national INTERPOL Bureaus. In addition, much of the content of the Carabinieri's Leonardo database shall be included in PSYCHE/ ID-ART. An innovative feature is the **image recognition tool** which allows users to automatically compare an uploaded image of a suspect object to those in the database to see if a match can be made. When PSYCHE and ID-ART are completed, the maintenance of the database will be the responsibility of INTERPOL.

Several interviewees have already started to use PSYCHE and were generally satisfied, especially by the new features. However, one of them indicated that the image-based search still needs improvement and suggested that the user-friendliness of the tool be enhanced as she had experienced difficulties with editing and deleting entries.

An important question is what data standards will be adopted for entries through ID-ART. From the viewpoint of supporting law enforcement activities, a flexible approach that can accommodate a range of formats currently in use in various Member States would be preferable. This would be in line with the working model for the Carabinieri's database LEONARDO. Adhering to the stricter demands of INTERPOL's existing database would limit its added value considerably.

Recommendation: Interoperability of all national databases with INTERPOL's ID-ART should be ensured.

The added value of ID-ART will also depend on who will be authorised to access it, provide entries and perform searches (e.g. only a central unit or local police units as well). Currently, this is not entirely clear, but it seems that customs agencies will not have (direct) access to ID-ART, which limits its reach.

The **Art Loss Register** (ALR) is a private database that registers both valuable cultural goods and lost and stolen art and antiquities. The registration of valuables is intended as a preventive measure, discouraging crime. Furthermore, the ALR also registers items that are subject to security claims (e.g. insurance, banking) and to civil disputes (e.g. in divorce procedures) as well as fakes and forgeries if reported by police or experts. The scope of the items on record is larger than of any other database and leaves out basically only items looted from the ground where no previous record of them exists.

Entries in the database can refer to any object that is uniquely identifiable with a description (including insurance details) and evidence. From private persons reporting a theft, the ALR asks for proof of ownership and a police report showing the object has been lost or stolen, but is flexible about what is considered evidence. Entries into the database are made only by the ALR staff who are all trained professionals. The entries are made upon request by title-holders, police and by the staff ex officio (based on media and police reports).

Only ALR staff has access to the database, so law enforcement officers wanting to check need to send them a search request to obtain the information indirectly. Search and registration of cultural objects for law enforcement is for free, whereas dealers, collectors, insurers etc. need to pay a fee. If a concerned citizen enquires about a suspicious item, a search can be run for free, and if it brings up a match, police are alerted. A drawback of the database is that, contrary to the previously discussed examples, it cannot be searched by law enforcement officials directly. Officials need to request ALR staff to perform a search for them. This could be considered to limit the potential law enforcement uses of this database, however within the market more generally, the closed nature of the ALR database may allow for a degree of market oversight which may help law enforcement investigations. Because the INTERPOL database is open for dealers and buyers of cultural goods to search, those that find themselves to be in possession of a looted object in the database may choose to hide that object from public view. In such a situation, authorities will not have been alerted to the search. In contrast, if a search contracted by a dealer or buyer through the ALR turns up an object that is documented as stolen, the ALR is then able to notify the proper authorities.

At the same time, the ALR as a private company has a contractual leverage on some actors (e.g. insurers, auction houses) and can use it to help recover stolen items. The ALR staff can also accompany law enforcement on a raid to help identify items.

The **ICOM Red Lists**[69] are not databases, but nevertheless are an important source of information for law enforcement. They are accessible to both officials and to the general public. The ICOM Red Lists present an overview of the types of goods that are prone to illicit trafficking from a particular country or region, and thereby help to create awareness among the public and experts. They contain valuable information for law enforcement,

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[69] See https://icom.museum/en/activities/heritage-protection/red-lists/.

namely: information about relevant national laws, identifying features such as sample museum numbers, typical features of artefacts (e.g. patterns, types of writing, materials). Although the ICOM Red Lists do not document specific missing objects, various Member State representatives indicate that they make use of this overview when checking the origin of cultural goods.

Cross-border access to national information

Law enforcement agencies in many countries have developed national databases of lost and stolen cultural goods. Most of these databases are created and maintained by the police for their own purposes and are open only to a limited number of users from the same country. The authorised users are granted account credentials. Typically, the authorised users would include the national ministry of culture and/or other government bodies charged with protection of cultural heritage, the customs agency and the public prosecutor's office.

There are a few notable exceptions to this rule. For example, the database of the Italian Carabinieri is partially open to any interested party free of charge. In addition, there are 15 units throughout Italy working on the database, and they can be contacted by email with a request to search the portion of the database that is not publicly available. These officers can accept vague requests (i.e. descriptions without photographs).

The Czech Police maintain a database called Artworks Portal Evidence System (PSEUD) that is available in four languages and is open to the police of neighbouring countries. Foreign police can access both public and police information in the database.

Where the police database is a closed one or there is no database at all, direct requests for information are the only possibility. The overwhelming majority of interviewees expressed their satisfaction with the speed and quality of the execution of their requests by foreign colleagues, but also indicated that it works well due to the possibility of a direct and informal contact. Many of the interviewees simply call on the phone or write an email if they need information from a foreign database. Some explained that official requests, when they have to be made for legal reasons, usually take a lot of time. Also, some countries are faster in answering than others. According to one interviewee, although some non-EU countries are especially slow in their responses, the response always comes eventually.

Recommendation: Investigate if and how mutual access to national databases could be improved for competent national authorities (i.e. customs and police databases). The Czech PSEUD database (see Section 4.4.5) can be used as an example of how this can be done.

4.3 Challenges faced by the authorities

Law enforcement authorities continue to experience a variety of challenges that—at times significantly—complicate the performance of their tasks and reduce their effectiveness. While the intensity and severity of these challenges can differ per Member State and even per authority within a Member State, they are interrelated and reinforce each other, exacerbating their effect. At the same time, some of the challenges can be considered fundamental and formative for other challenges and difficulties (see Figure 4.1); these challenges (Sections 4.3.1 and 4.3.2) are discussed below.

Figure 6   Challenges faced by the authorities
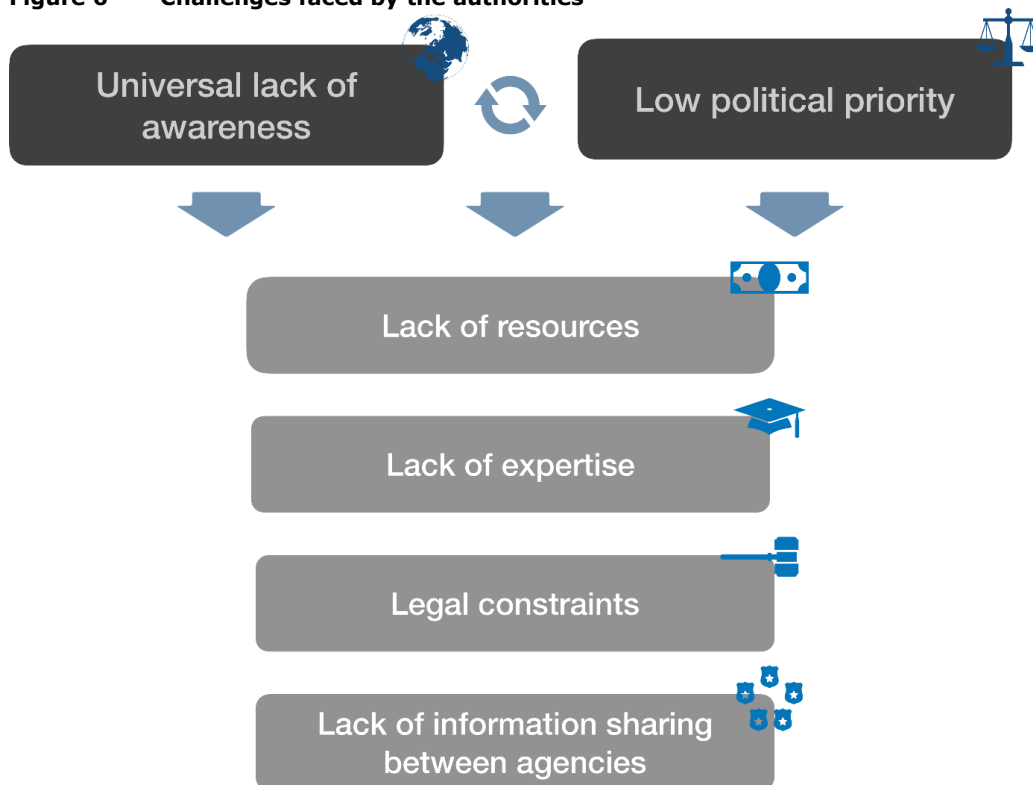
4.3.1 Universal lack of awareness about illicit trade in cultural goods

The general lack of awareness about illicit trade in cultural goods, its exact nature and its size is an important challenge that underlies and causes many other problems encountered by law enforcement. The lack of awareness is almost universal, as both survey and interviews suggest. The **general public lacks adequate information about what illicit trade in cultural goods entails**, with media paying disproportionate attention to Syrian and Iraqi antiquities and 'crowding out' trafficking in other cultural goods. The **lack of knowledge within the industry about illicit cultural goods** (see Section 3.4.2) impacts the trade's ability to develop and implement effective due diligence, to improve its reputation by rewarding compliant dealers and strengthening the legal trade and to increase transparency. It may lead to reputational damage of the licit art market and to

people refraining from buying certain items. It may also hinder the building-up of trustful and effective cooperation between the industry and law enforcement.

Some interviewees indicated that there is lack of awareness about illicit trade in cultural goods even among their law enforcement colleagues. This may lead to the lack of detection and underreporting of cultural property crime, for instance, while investigating other offences. It may also have an impact on international cooperation as requests of information or assistance in execution of procedural actions are misunderstood and are not prioritised.

Ultimately, the lack of awareness among the general public, industry and specialists leads to the **lack of awareness among politicians, which results in placing low priority of the issue on the political agenda**.

> *Recommendation: In a broader sense, countries should invest in awareness raising efforts, targeting various types of actors in tailored manner. For example, law enforcement training can focus on recognising objects, art dealers should be encouraged to improve due diligence and transparency, and the general public should be made aware of the importance of cultural heritage for our shared understanding of history and identity.*

4.3.2 Illicit trade in cultural goods is a low political priority

As a result of the lack of awareness about illicit trade in cultural goods, fighting illicit trade in cultural goods is a low political priority in most European countries (with a few notable exceptions, like Cyprus or Italy). Art crime is usually a 'victimless crime' in which only goods are directly subjected to the crime (see Section 3.2.2 where this notion is put into perspective). Illicit trade in firearms, narcotics or human trafficking are perceived to be more serious crimes, posing a bigger threat to society, and, therefore, receive more public and political attention—and, as a result, more funding and increased criminal responses opportunities. Low political priority was the factor most cited as facilitating illicit trade in the survey: all 12 public officials (consisting of representatives of law enforcement, government and international organisations) that answered the related question indicated that under-prioritisation facilitates illicit trade in their country, 10 of them (83%) stating this was 'very' or 'extremely' the case.

Low prioritisation of the problem perpetuates a vicious circle in the fight against illicit trade in cultural goods. Due to low prioritisation, few resources are committed to investigating and prosecuting this crime. This hampers the effectiveness and efficiency of law enforcement performance in these complex cases. Usually, only few cases are detected; in only a small percentage of them sufficient evidence is forthcoming to investigate perpetrators; only a small proportion of those cases is brought to trial; and only a fraction are tried successfully. As investigations are typically kept secret and only trials are publicised, this creates an impression that trafficking in cultural goods is a rare phenomenon and does not need more resources. **In other words: politicians require high numbers of convictions, recoveries and restitutions to act, but as long as the**

topic of illicit trade in cultural goods is not prioritised more than it currently is, no better numbers can be produced.

A few examples from stakeholder interviews illustrate the prevailing attitudes. One interviewee explains why only few cases of cultural property crime are reported by law enforcement and customs: "*…the reason there was only one case reported during the last few years is because police officers on the border are focused on other issues, such as immigrants. They do not pay sufficient attention to this type of crime*". A second interview captures the working of the vicious circle: "*The problem is kept small through it being not a priority and not dedicating a lot of resources. The less police are deployed, the less crime is uncovered, the less crime is reported. No one wants to create additional problems for themselves. This loop causes resources dedicated to the illicit trade to remain minimal.*"

The **low political priority of the problem**, at the same time, **reinforces the lack of awareness**, as fewer resources are dedicated to providing education on the topic at law enforcement trainings, to organise media campaigns for the general public and to include the topic in school curricula.

> *Recommendation: Combatting the illicit trade in cultural goods needs to become a political priority. The EU could play a more active role by, for example, presenting best practices more prominently in order to exert 'peer pressure' on countries. Going one step further would be to call out those Member States that do not take sufficient action to combat illicit trade in cultural goods (naming and shaming).*

4.3.3 Lack of resources for fighting illicit trade in cultural goods

Because the fight against illicit trade is not prioritised, law enforcement does not get the resources that it needs to effectively address the issue. The lack of resources manifests itself in a number of ways, affecting the organisation of law enforcement, staffing, skills and expertise of the officers, and endowment and equipment of law enforcement. Ten out of 12 public officials (83%) answering the related survey question indicated that the lack of resources is a facilitating factor for illicit trade in their country, 6 of them indicating this is 'very' or 'extremely' the case. The law enforcement respondents to the survey also indicated that their organisation needs—in order of priority—human resources, financial resources and better equipment as well as training to carry out more effective action against the illicit trade.

Many law enforcement officers stated that their teams are too small, **lacking enough human capacity to perform all tasks or perform them efficiently**. An interviewed prosecutor confirmed that, while the cooperation with the police and customs was good, they did not have many members of staff available to work on the cultural property cases (which was, however, typical for other topics as well). As already indicated, regular monitoring and research of the (online) market is impossible for many national law enforcement agencies. One police officer said that, while they receive many notifications of suspect goods from academics, civil society and internet users, they do not have enough

resources to follow up on all these notifications. Many law enforcement authorities lack specialised capacity, namely experts in systematic data gathering, data analysis and creation of statistics. Even the arrival of automated tools, for example for monitoring the internet, would still require human expertise to interpret the results and would thus not (fully) address this limitation (see Section 5.4).

Lack of funding also **negatively affects the potential for professional development** of law enforcement officers, as mentioned by a large number of interviewees. As many of them do not have a specialised background in archaeology or other relevant subjects, the possibility to participate in training sessions (e.g. those organised by UNESCO) and to attend meetings with colleagues from other countries where best practices and knowledge can be exchanged (e.g. via CULTNET) is of utmost importance. However, the participants of such events usually have to bear their own travel and accommodation costs, for which they may not be granted funds. If they are unable to attend such events, law enforcement officers also miss the opportunity to establish the necessary (cross-border) connections that may allow them to improve their policing work.

Lack of funding **impacts the ability of law enforcement to consult or use external experts**. For instance, there are archaeologists who assist police and customs pro bono and in their free time. However, this is an unsustainable model for their involvement as they may not be able to afford to work for free and most experts cannot work pro bono in addition to their regular job. Such work is unlikely to attract any professional credit within their "day job", and there is no real incentive to participate. It might even be viewed as detrimental to career progression.

Several interviewees also bemoaned the **lack of necessary equipment**. This includes not only specialised technology (for example, bespoke state-of-the-art electronic databases, image recognition software or special web crawlers), but also good (high-resolution) cameras, drones or cars. One interviewee wishes: "*It would be good for the service to have off-road vehicles, since much of the treasure hunt takes place in remote, high-mountain areas*".

The lack of funding further fuels the vicious circle described above. As explained, **lack of resources** for fighting illicit trade in cultural goods **means that law enforcement is less effective and produces fewer results** that matter (like recoveries, convictions) and cannot generate statistics. Therefore, the **true size of the problem remains further concealed**, and a perceived small problem can only obtain limited funding.

Recommendation: Law enforcement should be better resourced in order to be able to establish a specialised unit with sufficient staff, to develop skills and expertise of the staff, to engage external experts, where necessary, and to acquire the necessary equipment.

4.3.4 Lack of expertise on illicit trade in cultural goods

Lack of expertise on illicit trade in cultural goods is a direct consequence of the lack of funding for and low political priority of this issue. We choose to discuss this separately to emphasise the important aspects of this challenge.

Illicit trade in cultural goods is under-researched as a phenomenon and is poorly understood. To study the phenomenon in depth, long-term comprehensive studies are necessary that would either create statistics or would rely on national statistics once those are collected. The three-year ILLICID project aimed at developing and applying methodologies for measuring the illicit trade of cultural objects inside Germany is supported by €1,2 million funding from the Bundesministerium für Bildung und Forschung (SPK, 2015). This is the first study of a realistic scale for measuring the size of the market in one country alone. Currently, however, no coherent statistics or data are available (as explained in Section 3.2), and academic research focuses on individual cases or countries, so that no holistic picture for the whole of Europe exists.

Another issue is lack of expertise in the law enforcement: there are not enough specialised units in police and customs and very few specialised prosecutors. Such specialised police (or customs) units are considered to be extremely effective: 10 out of 12 (83%) public officials' survey responses indicated that such a unit had helped fight illicit trade in their country, 7 of them stating this was 'very' or 'extremely' the case.[70]

As noted by several interviewees, the lack of expertise at the ground level and insufficient training for customs and police can result in **failures to detect (potentially) illicit cultural goods, in low quality of entries in databases and in poor investigation and evidence collection**. For example, 10 out of 12 public officials (83%) answering the related question indicated that lack of scientific knowledge to detect forgeries is a factor facilitating illicit trade in their country, with 6 indicating this is 'very' or 'extremely' the case. The lack of specialised prosecutors is "*harmful as well*", in the words of one interviewee: "*Some cases [do not] get the attention or treatment they deserve because the public prosecutor is not sufficiently specialised. It is necessary to provide trainings to recognize illicit trade or ancient goods, which the police department [and public prosecutor] cannot [do] at the moment*". The lack of specialised training seems to be a missed opportunity: 10 out of 12 public officials (83%) answering the related question indicated that specialised training had been effective to combat illicit trade in their country, with 7 of them indicating this was 'very' or 'extremely' the case. The two remaining respondents indicated they do not know, most likely because they have not received such training.

Recommendation: More resources should be dedicated to understanding the illicit trade in cultural goods, by procuring dedicated large-scale longer-term studies (e.g. via Horizon Europe) and by adequately resourcing law enforcement to collect, share and analyse relevant data. Countries should invest in the development of expertise at all stages of the criminal justice system (see Section 4.1.2).

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[70] One respondent indicated it had not at all been effective, the 12th respondent indicated (s)he did not know, most likely because there is no specialised unit in that official's country.

4.3.5 Legal constraints

National legal frameworks may also have implications on the effectiveness of criminal justice responses, both nationally and across borders. The interviewees raised a number of different issues, some of which may be peculiar only to one jurisdiction while others are more widespread.

An important, overarching problem is the **lack of harmonisation among EU Member States** (or, more broadly, European countries) of some central concepts, like 'cultural goods', 'antiquities', 'archaeological objects' as well as of different approaches to legality and prosecution of certain actions. While there are a number of international conventions and EU legal instruments that aim to solve this problem, in the opinion of many interviewees the goal has not yet been effectively achieved. The main reason for this is that international and EU legal instruments were transposed and implemented differently in the national law of each Member State, such that only a very low degree of harmonisation has been achieved. The interviewees did not specify the individual legal provisions that need further harmonisation or where implementation has been too fragmented, but gave several anecdotal examples of the difficulties that encountered in their own practice of cross-border crime fighting:

> *"Different legislations between EU Member States is one of the major problems. Example: An Amsterdam art dealer bought something in good faith. Much later it appeared that it was stolen from a museum in Germany. The dealer however exercised due diligence and, did everything in accordance with Dutch law and therefore was legal owner of the item. The German authorities asked for assistance in interviewing him as a suspect and seize the item. But according to Dutch law he wasn't a suspect in the matter at all. The dealer wanted to be compensated for the sale, the Germans could not recompense him because it is illegal to buy stolen items. In the end the [German] museum compensated him for the lost money (dealer did not make a profit). In German law the museum then committed a criminal act, i.e. according to German law de facto they bought a stolen item."*

While almost all EU Member States have ratified the 1970 UNESCO Convention[71], only 15 have ratified the 1995 UNIDROIT Convention. As for the Nicosia Convention, only Cyprus has ratified it so far[72].

Recommendation: Ratification and effective transposition into national law of international legal instruments will increase the level of harmonisation across countries, provide a solid foundation for cross-border mutual legal assistance and reduce the number of loopholes that can be abused by criminals. The Nicosia Convention in particular is designed to enhance criminal justice responses.

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[71] Ireland and Malta are the only EU Member States that have not done so to date.
[72] The Nicosia Convention requires 5 ratifications to enter into force. Currently, there are 11 signatories and 2 ratifications; Mexico and Cyprus.

Different approaches of national legislation to the implementation of international and EU legal instruments are conditioned by **different legal traditions**. These legal traditions determine the regime of private property (i.e. what can be considered private property and what rights and obligations that rightful owner has), the existence and type of markets and the extent of government intervention into both. For example, in Bulgaria, Cyprus and some other countries, all archaeological finds belong to the state. The Cypriot interviewee explained their approach:

> "This strict regulation was mainly the result of the heavy looting that occurred in Cyprus through the ages, as well as the mass export of Cypriot cultural objects during the period of Ottoman and British rule. As a result, these cultural objects are now spread across the world. Therefore, Cyprus decided (with the 1935 Antiquities Law) that cultural goods belong to the state. As such, Cyprus does not have a legal antiquities' trade. There are private collections of antiquities but these need to be registered and licensed, and possessors are not allowed to trade in antiquities (they can be donated or inherited)."

This is not the case in some other countries such as, for example, the UK.[73] In England and Wales, all archaeological finds are normally the property of the landowner, on whose land they were found; the exception are the so-called treasure finds as defined by Treasure Act 1996 and Treasure (Designation) Order 2002. To sell a non-treasure find, its finder needs to have the permission of the respective landowner. There is a legal obligation to report all treasure finds, but even such finds can be sold legally by the finder after they are disclaimed on behalf of the Crown.

The interviewed law enforcement officers from Southern Europe perceive the Northern countries as more liberal, and the difference in legal approaches complicates cooperation:

> "The work with countries from northern Europe is challenging because their cultural goods' and historical values' trade regime is rather liberal. They do not have as strict requirements for establishing artefacts' origin as Bulgaria, Greece, Italy and Spain do."

Commonly to all countries, **the legal characteristics of the crime are problematic**. All interviewed police officers and prosecutors explain that the burden of proof is very high due to the nature of the crime (i.e. it is very difficult to get evidence that an item that nobody knew was there in the first place was illegally excavated from a specific site), which means that efforts required to conduct an investigation are significant. One interviewee explains:

> "Typically, in my experience, the investigation focuses especially on recovery of the goods detected after years abroad in an art gallery or auction house, the offence usually is fencing. It is difficult to detect the person/ group originally responsible.

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[73] The process described in this paragraph may change slightly if and when the relevant law is amended. The public consultation on the amendments was launched by the Department for Digital, Culture, Media and Sport on 1 February 2019. See Revising the definition of treasure in the Treasure Act 1996 and revising the related codes of practice at: https://www.gov.uk/government/consultations/revising-the-definition-of-treasure-in-the-treasure-act-1996-and-revising-the-related-codes-of-practice .

It is difficult to obtain a sentence against someone, as it is very hard to demonstrate, have evidence that the last person detected (the owner of the piece) was aware, at the time of buying, that the good was illegal. You can try to do this via the amount paid: if it is low for a masterpiece, then this is a hint. But usually the owner has all the legal papers."

It is **not always possible to return a recovered object to its country of its origin**: a few interviewees indicated that sometimes no country claims recovered objects or is able to prove that the objects were looted from its territory. The recovered cultural goods then are simply stored by the police for an undefined amount of time, and the case cannot be closed. For various reasons, investigation and recovery do not necessarily lead to prosecution of the criminals. One interviewee states: *"All this throws off the balance between effort and reward for law enforcement".* It is relatively expensive for law enforcement authorities in terms of time and resources to combat illicit trade, while rewards and results are low.

Perpetrators seem to be aware of this imbalance: **getting involved in cultural property crime pays off**. There is a low chance of being caught, and if one gets caught, the chance of getting convicted is minimal. In some countries, loopholes in law allow perpetrators to walk free. For example, in Bulgaria all archaeological finds need to be turned over to a museum within seven days. A Bulgarian interviewee explains that traffickers and mid-range dealers use this legal provision as a defence from seizure/ confiscation of items. In other cases, statutes of limitations may be applicable. For example, in Germany, the statute of limitation of 30 years applies even to a bad faith purchaser, in which case he/she cannot be forced to return an illegally obtained cultural good. On top of that, the punishments for cultural property crimes are low in all European countries. Law enforcement representatives (e.g. from Belgium, Norway, Sweden, UK) are aware of the favourable nature that this creates for criminals.

4.3.6 Lack of information sharing between agencies

One of the important problems that inhibits adequate and effective criminal justice responses and that was mentioned by many interviewees is the lack of information sharing between different agencies involved, both in the national and cross-border context. In Sections 4.1.4 and 4.2.2, we touched upon arrangements for data and information exchange when describing national cooperation and access to information. However, the deficits of information sharing are a separate issue that warrants special attention.

All interviewees pointed out various shortcomings in information and data exchange. One of the most fundamental shortcomings is that **data is not (properly) collected**, for instance, in some countries there are no databases and no statistics; therefore, nothing can be shared in a regular and systematic manner.

In most countries, however, some data and information are collected, mainly in the form of records of lost and stolen cultural goods. Yet, law enforcement agencies are **reluctant to share them even within their own jurisdiction**. Many interviewed police officers did not know whether their colleagues at customs had a relevant database, and vice versa.

Some police databases are closed to customs (i.e. are for internal use by the police only) who can only access them via informal contact. In some cases, information is shared in form of regular reports, however the interviewee could not specify the frequency of such reports or what type of information was included. It has been mentioned by some interviewees that official channels and protocols for inter-agencies requests for information can be slow and inefficient.

The information is commonly shared in an ad hoc manner, mainly when there is a suspicion of a criminal activity (i.e. upon request or by law when customs has to hand over the case to the police). This type of information and data sharing is necessary for a specific criminal response (e.g. investigation), but is not helpful or effective for crime prevention, detection and analysis of developments in crime and criminal responses. Without regular and systematic sharing of data and information, customs cannot develop specialised and more up-to-date risk assessments, and the police cannot assess and improve its own performance. Due to the lack of data and information sharing, the awareness about cultural property crime remains low.

Cross-border information sharing between different customs authorities and between different police authorities seems to work well (according to the interviewees). This is because there are specialised formal and informal networks where these law enforcement agencies regularly meet and remain among themselves. But there are still **difficulties where inter-agency exchange of information** is necessary and there are no informal direct contacts. One of the interviewees explains why national inter-agency exchange of information is important for successful international cooperation:

> "*It is important that information exchange takes place on the national level because [my specialised] unit is not the only unit that can come across cases of trafficking. Furthermore, if questions are asked from abroad, [the interviewee] is usually the one who has to answer them and, therefore, she needs to be aware of 'the full picture'. If customs don't share all information, it is difficult for her to answer all questions.*"

Recommendation: Law enforcement agencies should be encouraged to systematically collect data, create databases and share data and information on a regular basis with other agencies, for example, through granting each other access to their databases and through regular meetings (see other recommendations in Sections 3.2, 4.1.3 and 4.1.4).

4.4 Best practices

In this section we present a number of best practices in various areas of criminal justice responses that were identified by interviewees and through desk research. While the implementation of these practices would definitely aid in the fight against the cultural goods trafficking, we need to keep in mind that the EU's measures to combat illicit trade in cultural goods can only be as strong as its weakest link.

At the outset, with regard to the listed best practices we have **two important recommendations**:
1) The strengths of the different approaches of the Member States should be acknowledged and built upon, as there is no 'one size fits all' solution in this field and different countries have found innovative ways to deal with specific problems.
2) Some countries are pioneers in a certain aspect of combatting the illicit trade. Other countries should be encouraged to learn from these experiences, and the 'pioneers' can play a leading role in further developing and sharing their practices across the EU.

4.4.1 Awareness raising

Catalogue of Endangered Latvian Cultural Archaeological Artefacts

In Latvia, the Latvian Academy of Culture, National History Museum of Latvia, and State Inspection for Heritage Protection jointly developed a public "Catalogue of Endangered Latvian Cultural Archaeological Artefacts". The project received advisory support from the State Revenue Service, State Police, State Border Guard, Latvian Postal Office and Riga International Airport. The catalogue shows various types of archaeological objects that are "*more frequently acquired illegally, illegally traded and exported outside the territory of Latvia*".[74]

The goal of the catalogue in general is to raise awareness about the illicit trade in (Latvian) cultural goods. It aims to educate the general public as well as (foreign and Latvian) traders, museums and other organisations in the cultural sector on how to recognise potentially illicit objects. It is also used directly by law enforcement to help them recognise potentially illicit objects. In this sense, it is somewhat similar to the ICOM Red Lists. The catalogue was included in the INTERPOL database and was disseminated globally (through INTERPOL) to relevant police agencies.

The Latvian catalogue is an example of good practice in raising awareness about the phenomenon of illicit trade in cultural goods among a broad audience: the general public and the trade, the cultural goods sector and (international) law enforcement officials. Moreover, it seems to have had an effect: Latvian law enforcement indicated that the catalogue helped intensify targeted law enforcement activities. As a result, the number of

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[74] More information and the catalogue itself can be found here: http://lnvm.lv/en/?p=1523.

potentially illicit objects traded per day on one prominent marketplace platform was brought down from 2.000 to 80 objects (a factor of 25).

The project itself can also be considered as an example of 'good practice' for engagement and cooperation of many different stakeholders to develop an initiative aimed at combatting illicit trade in cultural goods.

Italian Carabinieri app 'iTPC'

The Italian Carabinieri has developed an app that provides information about cultural heritage and allows citizens to assist the Carabinieri by reporting thefts or finds of cultural goods such as ancient paintings or statues. The app has multiple functions. One is to provide access to past news and bulletins on cultural heritage that have been prepared by the TPC from the 1980s to the present. Another function is a 'visual search', which allows users to compare photos they take of suspect objects against the Carabinieri database of stolen cultural goods. A third function allows users to create an 'Object ID' for objects they own, with an accurate photo and brief description. The Object ID can be used in an investigation in case the object is stolen. Fourth, users are able to request advice from the Task Force Unite4Heritage, which includes experts from UNESCO and the Carabinieri and is knowledgeable about objects from crisis zones. Finally, the app assists users in locating the closest TPC office.

All in all, the iTPC app is an example of good practice in raising awareness among a broad public by giving them tools to work on the protection of cultural heritage themselves. Such an app could potentially be beneficial in other countries and at a European level as well.

4.4.2 Political support—and associated funding

Italy's comprehensive approach

The Italian government made the protection of its cultural heritage an important political priority long ago and ensured that its law enforcement units are properly equipped to deal with the challenge. The Ministry of Culture, Customs and Carabinieri work closely together, and the Carabinieri's unit for protection of cultural heritage is well-funded, staffed and trained. The political support is further expressed in the strong diplomatic support for the retrieval of illicitly traded Italian cultural goods from abroad. Embassies have a cultural attaché who puts cultural heritage on the agenda and exerts pressure to assist the restitution procedures. This can result in pragmatic but creative deals: for example recovered stolen artefacts are returned to an Italian museum by a third country, and in return the museum may make these objects or a collection available for a (temporary) museum exhibition in that third country.

The Italian government approach constitutes an example of good practice that combines various important elements: political prioritisation, funding and training, and complementing the law enforcement and legal tracks with diplomatic actions.

Bulgaria's embassy liaisons

Bulgaria has a network of law enforcement officials that work at embassies abroad. They are authorised to, upon instruction from the 'home base', organise meetings with their counterparts in the host country, coordinate on cases and contribute to joint operations or preventive actions. Through them, information can be quickly shared and a good (bilateral) network of contacts can be maintained. This constitutes an example of good practice in facilitating a cross-border response to the illicit trade in cultural goods.

4.4.3 National specialised unit

Comando dei Carabinieri per la Tutela del Patrimonio Culturale

The Italian Carabinieri constitutes an example of good practice of a national specialised unit. It is well-funded, has a large staff and state-of-the-art equipment, and is active nationally and internationally to combat illicit trade in cultural goods and to raise awareness among a large audience (see above). It is a well-known and internationally renowned specialised police unit.

USA: New York District Attorney's Antiquities Trafficking Unit

Several interviewees have highlighted the work of Matthew Bogdanos, a US Assistant District Attorney, and his Antiquities Trafficking Unit as a good practice. Within this unit, full-time antiquities trafficking analysts coordinate with experts, the police, the Department of Homeland Security (DHS) and prosecutors under the guidance of a public prosecutor (in this case the assistant district attorney) (Artnet 18 December 2017). The reach of this unit only extends to crimes committed New York County (thus, to New York City's Manhattan), however as a market centre, this represents a sizeable share of the global antiquities trade. Through combining the legal competences of the district attorney, DHS and police, the unit has at its disposal the required tools to enable confiscation of suspected looted objects. It has already undertaken several investigations and actions that resulted in the recovery of artefacts collectively worth over $150 million and repatriating many of these to their countries of origin (Manhattan DA, 4 September 2018).

4.4.4 Leadership

Institutionalisation of CULTNET

During Bulgaria's Presidency of the Council of the European Union in 2018, steps were taken to formalise the (currently informal) CULTNET network. This was made possible by the Dutch government's readiness to provide a Permanent Secretariat for this institution (Bulgarian Presidency of the European Council, 8 May 2018) and efforts by Bulgaria and Romania to put this topic on the agenda during their respective presidencies of the network. In addition, much work has been done by the leadership of the Dutch Police's Antiquities and Art Trade unit to put this topic on the agenda domestically, and the unit succeeded in persuading the Dutch government to make staff and funds available to support this permanent secretariat.

Reinforcing a European approach: Spain's unit driving collaboration

The leadership of the Spanish Heritage Team in the Central Operational Unit of the Guardia Civil has played a crucial role in advancing collaboration between European law enforcement stakeholders on countering illicit trade in cultural goods. It has initiated and led a number of EMPACT-joint action days (Europol, n.d.), and strongly advocates cooperation via Europol and CULTNET, which further strengthens a joint European approach. The team has been specifically active in the driving the Pandora actions (I, II and III)

Operation Pandora I, II, III
All three iterations of Operation Pandora have been geared towards dismantling criminal networks involved in cultural theft and exploitation (and identifying possible links with organised crime). Thus far, three operations have taken place:
- Operation Pandora I – October/November 2016;
- Operation Pandora II – October/December 2017;
- Operation Pandora III – October 2018.

During the operations, numerous items have been confiscated, individuals have been arrested and investigations were initiated (see Table 6 for exact numbers). In all three operations, the Spanish Guardia Civil has played a crucial role in coordinating and/or leading the efforts of the various participating agencies and Member States.

Effectively enforcing existing laws: New York District Attorney's Antiquities Trafficking Unit

The Antiquities Unit led by Matthew Bogdanos introduced above shows that forceful action can be taken within existing legal frameworks. With funding and specialised staff commitment, combating illicit trade in cultural goods can be made into a priority, and as his unit's successes in recovering and repatriating objects shows, it is not always necessary for law enforcement to obtain additional competences or to create new legal instruments to be effective in combating this illicit trade in cultural goods. A consistent and effective enforcement of the existing legal framework is the priority.

4.4.5 Access to data and information exchange

Carabinieri LEONARDO database

The Carabinieri's LEONARDO database constitutes an example of good practice, but as it is well-known and covered in various other sections in the report, we refrain from expanding further here.

Czech Republic: PSEUD database

Since 1992, the Czech Republic has maintained a database called *Portál systému evidence uměleckých děl* or PSEUD within which stolen and recovered cultural objects are registered by the Criminal Police and Investigation Service. When an artefact is stolen, it is first

entered into the police information system. If the artefact meets the necessary requirements, it is included in the PSEUD search database. A restricted version has been online and accessible to the public since 2001. The full, non-restricted database is accessible to officials from police, the Ministry of Culture and the customs agency, the National Heritage Institute, and the National Gallery. What sets this database apart is that officials from neighbouring countries Austria and Germany have direct access as well. This constitutes a good practice in information sharing domestically between different stakeholder categories (including other government departments and museums), as well as cross-border information sharing with the police from other countries.

4.4.6 Monitoring of online trade

As the sale of cultural goods has largely moved online, it is important for law enforcement authorities (and other relevant actors) to monitor these online sales regularly. Some countries indicated they are able to conduct such checks in a consistent manner. The Italian Carabinieri has a team working full-time on managing the unit's database and monitoring the Internet sales. Similarly, in Germany's Baden-Württemberg, one FTE is dedicated to updating the unit's database and to checking the online trade. In Bulgaria, there is no dedicated team or officer who is tasked with the regular checks of online sales but the team jointly makes sure that the four biggest websites (for Bulgaria) are checked on a daily basis. Other Member State representatives (Belgium, Spain) indicated that they do not have sufficient resources to monitor the online trade themselves; instead they rely on leads they receive from inter alia the public and academics.

The efforts of the national law enforcement authorities have been supported by the latest Pandora operation (III) where significant focus was put on investigating the online trade. This operation included a cyber patrol action where suspicious advertisements of cultural artefacts on the Internet were checked and investigated.

4.4.7 Training

UNESCO and EU training sessions

UNESCO regularly hosts training sessions for various stakeholders that (may) encounter illicit trade in cultural goods. Sometimes these are organised together with the European Union, as happened for example in 2018—European Year of Cultural Heritage. These may be focused on art dealers specifically or on government representatives. Interviewees who attended such meetings recently indicated that they were helpful, as these training sessions bring together public prosecutors, police and customs officials as well as representatives from cultural ministries. Not only do the training sessions raise awareness and improve exchange of information, they also facilitate direct contacts that are important when cross-border cooperation needs to take place.

UNESCO creates and distributes various (online) training materials for different audiences: law enforcement, customs, judiciary, art market, and researchers. In 2018, UNESCO and the EU developed a training manual "Fighting the Illicit Trafficking of Cultural Property: A Toolkit for European Judiciary and Law Enforcement". The manual contains basic reference

documents along with examples of their use and exercises to complement the theoretical information. It aims to provide comprehensive information for practical use by the police, gendarmerie, customs, prosecutors and judges.

WCO regional training

Together with UNESCO, the WCO has developed specific training for customs officials in countries of origin where cultural heritage is especially at risk (see for example WCO 19 December 2018). These training sessions raise awareness among the customs officials who are at the frontline of the fight against illicit trade in cultural goods and provide them with relevant operational tools.

NGO training

Some NGOs also provide training. For example, since 2017 the Lebanese NGO Biladi has, with the support of the Norwegian Embassy in Beirut, organised training sessions bringing together Iraqi, Syrian and Lebanese cultural heritage professionals with international experts in law and enforcement, and used the training as a platform through which to establish an international network dedicated to the recovery of looted objects form the countries involved.

Comprehensive approach to trainings in Latvia

In Latvia, various public institutions and government agencies have joined forces to combat cultural heritage crime. Following the idea of the Latvian School of Public Administration and with support of the National Heritage Protection Board, the State Police, Customs, the Latvian Ministry of Culture, the Latvian Ministry of Justice, the Latvian National History Museum and the artlaw.club platform, regular training sessions have been developed and organised since 2014. These training sessions attempt to raise awareness across various bodies of the government including law enforcement authorities, judiciary bodies, controlling institutions (inter alia Latvian Post Office, Riga International Airport personnel) and cultural institutions. The raining covers the current Latvian context, legal aspects, approaches to international cooperation and practical know-how on the identification of artefacts. Training modules are tailored to the respective audience.

The results of this approach, presented at the CULTNET meeting in April 2019, are impressive. Whereas, in its peak year 2014, 36 cases of destruction of Latvian cultural heritage sites were reported, this number dropped to 3 in 2018. Similarly, the number of archaeological items of Latvian origin for sale on eBay decreased significantly. In November 2016 eBay offered 2007 of such items (when accessed from US browser; 30 when accessed from Latvian browser) while in March 2019, only 57 items were offered (14 when eBay was accessed from a Latvian browser).

4.4.8 Cooperation with archaeologists, NGOs and private investigators

In the Netherlands, the specialised police unit occasionally works with private art investigators. These private investigators may have privileged access to information, as they are able to make connections and investigate people operating in the 'grey area' more easily than the police can. Such art investigators have proven to be of help in recovering stolen art on several occasions, such as the recovery of five Dutch Golden Age paintings stolen from the Dutch Westfries Museum (New York Times, 7 October 2016). Such an approach would not work in every country. For example, in the UK authorities are sceptical of working with private art investigators even when some of these private investigators are former police officers. Cooperation with archaeologists is appreciated by all law enforcement.

4.4.9 International cooperation

Throughout the study, several examples of good practice for international cooperation were encountered. As indicated in Section 4.2.1, **INTERPOL** is an important agency facilitating international cooperation and has received praise from many of the interviewees and survey respondents.

EU and regional cooperation

Other fora such as **SELEC** and the more informal **Scandinavian regional cooperation** were highlighted as avenues to coordinate effective actions. **CULTNET** was mentioned by several interviewees as helpful in establishing and maintaining a relevant network in the EU, and its planned formalisation will increase its added value.

When a cross-border investigation reaches the prosecution stage, **Eurojust** plays an important role in streamlining collaboration between different countries. The supporting work of its national desk liaisons constitute an example of good practice in making investigations more effective. Their role in this area may grow as the European Investigation Order (EIO) becomes more frequently used. Through the EIO, judicial authorities can request evidence and direct other Member States to start an investigation. Such requests cannot easily be refused. This tool has only been fully operational since 15 September 2018 but is already considered to be a valuable tool (Eurojust, 29 January 2019).[75]

Finally, **Europol**'s role in the field could (potentially) constitute an example of best practice in international cooperation. At the moment, they are able to facilitate cooperation between EU Member States, with third countries, and with private parties (such as Facebook and eBay) through the EMPACT platform. It has a budget with which it organises meetings before and after joint action days and can support the participation of third countries of interest (such as Balkans countries). Through its coordination and support for joint action days hosted as part of EMPACT, it also promotes 'institutional learning': each joint

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[75] See also the Eurojust EIO infographic available here
http://www.eurojust.europa.eu/doclibrary/corporate/Infographics/European%20Investigation%20Order/2018-European-Investigation-Order.pdf.

operation raises the learning curve for involved police and customs agencies. In the future, it will facilitate cooperation through hosting the Secretariat of a formalised CULTNET. At the same time, maximising Europol's potential added value would require an increase in its dedicated budget and staff for the illicit trade in cultural goods.

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5. Assessment of new technologies used for identifying potentially illicit cultural goods and for sharing information on them

This chapter will discuss the technical tools that (a) are currently used by relevant European agencies and organisations for identifying potentially illicit cultural goods or sharing information as informed by the previously-discussed interviews and surveys; (b) are presumed to be currently in use by relevant European agencies based on open source data analysis, but were not directly addressed by interviewees or survey respondents; and (c) are not thought to be currently in use but that may represent innovative products in this field.

The inventory of technologies is followed by their analysis based on their impact, effectiveness, and added value, particularly with respect to cross-border cooperation and with addressing an illicit trade that is increasingly digital in itself. The analysis draws upon interview data, survey responses, and the results of surveys of open source data related to technology use and possibilities towards combatting the illicit trade in cultural goods in Europe. This chapter is supplemented by specific assessments of selected individual technologies presented at the end of this Chapter in Annex 4.

5.1 Main technical tools for identifying illicit cultural goods and sharing information and new innovative tools

5.1.1 Main technological tools currently in use by relevant European agencies and organisations

X-Ray scanners

Perhaps the most ubiquitous technology currently used to identify potentially illicit cultural goods within Europe are X-Ray scanners. Employed at ports, airports, borders, and notably within national postal systems, the use of X-Ray to detect illicit goods within luggage and parcels, and on persons is standard practice throughout the world. The **key advantage of using X-Ray scanning technology is the widespread presence of scanners**: no further investment in technology is needed. However, the success of X-Ray scanning technology in detecting illicit cultural goods **depends on the operator having had relevant training**. While many types of illicit cultural objects present as distinct and identifiable forms within X-Ray images, operators must be familiar with those forms. Following detection in an X-Ray scan, agents and operators must conduct a visual search of the object in question and thus must be trained in the physical identification of potentially illicit cultural goods. Further, replicas of ancient objects are sold as common tourist souvenirs or shipped as exports from various countries, meaning that the **false positive rate for detection of illicit cultural goods via X-Ray scanners is high and leads to an increase in physical inspections**. Agents using X-Ray scanners must be tasked with or provided with a mandate to conduct searches of suspected illicit cultural goods as such actions require increased delays to passengers and shipments which, in turn, carries an increased staffing cost to minimise such delays.

Databases

One of the primary technological tool types mentioned by informants and survey respondents was databases of cultural goods that are known to have been stolen. These range from police/agency-run (e.g. INTERPOL's PSYCHE database) to those run by a non-governmental organisation (e.g. the commercial Art Loss Register's database, but also the database of stolen items maintained by the Church of Sweden); from national (e.g. the Carabinieri's LEONARDO database) to international; from closed databases to those that allow the general public to conduct searches. A closed database limits access to the members of the agency that is running it (e.g. police), so that other national authorities (e.g. customs) and foreign authorities would need to file an official request for information to access it.[76] Among those open to public, some databases can be accessed by citizens and traders directly and free of charge; other databases require subscription or registration and, in some cases, a fee; yet other databases can only be accessed indirectly by sending a request for information to the agency running the database (i.e. the archive of lost cultural goods of the Cypriot Department of Antiquities).

An advantage of the use of databases for both recording and researching crimes related to cultural goods is that they are a **familiar technology, with simple searching usually considered to require little in the way of additional training**. However, databases are **difficult to set up, costly to maintain, and are only as useful as the quality and completeness of the data they contain**. Respondents report that most of the applicable databases in Europe are not set up for information sharing or cross searching and that limited funding prevents development, expansion, and modernisation. Further, databases of stolen items are **only useful** when investigating the theft and trafficking of **previously known and documented cultural goods**, such as those stolen from a museum. The databases are, however, less useful where cultural goods in them are poorly documented, and officers have to rely on low-quality images or even solely on (sketchy) verbal descriptions. Previously undocumented cultural goods that have been illicitly excavated from the ground cannot be recorded in databases, meaning they are of limited utility in most antiquities trafficking cases.

Importantly, in their current form, **checking existing databases of illicit cultural objects is not possible in most front-line situations**. Border agents, for example, who must make a decision about detention, further investigation, or seizure in a matter of only a few minutes are unlikely to be able to search the plethora of databases available; even if they had the time to do so, they are unlikely to have the vocabulary to describe the object in question in such a way that would turn up database results. As such, the databases are only useful further down the investigative line when an object has already been seized or in market situations where more time for research is available.

Web crawling and scraping applications

A number of informants and survey respondents reported either the current use or the desire to use web-crawling and scraping applications to investigate the sale of cultural goods online. There was a relative consensus among stakeholders that the internet

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[76] In practice, informal requests are frequently made in order to speed up the information exchange. However, a proper procedure needs to be followed for evidence gathering.

represents the primary marketplace for most illicit cultural goods in Europe and that **technical investigative tools that focused on the internet marketplace** were both **appropriate and useful**.

Web crawling refers to the use of internet software to systematically index a website or set of websites, and web scraping refers to the automated harvesting of data from these indexed sites. Users have the ability to target specific sites and types of data (e.g. by keywords, images, etc.) based on their needs. Such tools allow agencies to quickly gather relevant information concerning sales of antiquities from large auction and sales sites, as well as the wider web. However, **processing that data requires human eyes, training, and expertise**. The need for adequately trained staff to work on these online data is not necessarily reduced, but crawlers and scrapers allow that staff to save time, cover larger ground and process more data. Interviewees who noted that they did not use automated tools to search the web mentioned **limited staffing as the primary reason for lack of uptake**.

Machine Learning, Artificial Intelligence, and Image Recognition

Machine learning is a blanket term for statistical techniques employing neural networks to accomplish tasks. These can be collectively referred to as Artificial Intelligence (AI) because they aim to perform tasks that humans accomplish with ease. Machine learning distinguishes itself from other approaches to AI in that the algorithms employed by the neural networks are statistically deduced rather than hand-tuned by a human designer.

Machine Learning is being applied to the art world in a number of experimental ways, for example, in the detection of forged paintings (see Elgammal et al, 2017). That said, respondents and interviewees reported only one application of Machine Learning/AI in use among relevant agencies responding to the illicit trade in cultural goods: image recognition.

Early approaches to image recognition were based around hand-designed algorithms. However, in the last few decades, machine learning-based techniques have matured, and statistically deduced algorithms are commonly used for image recognition. Such image recognition applications can take many forms. In the context of this study, interviewees referred to applications that, when used in tandem with web crawlers and web scrapers, can identify patterns in digital images that are likely to indicate that the image is of a specific subject. In this case, image recognition is used to identify images of cultural goods which have been scraped from auction sites, social media, and other websites. Few respondents reported having direct experience with such applications, but more were familiar with agencies in Europe who are using image recognition in their work to detect illicit sales of cultural goods. Such applications **produce high false positive rates**, with detection thresholds usually set to reduce false negatives, and a **trained user who is able to identify illicit cultural goods** and other items of interest is needed to process all data collected. Thus, like more basic crawlers and scrapers, staffing requirements are not significantly reduced by the use of image recognition software, but rather trained staff are able to process more data more quickly.

Communication platforms

Policing and related agencies are known to be using various types of bespoke communications platforms to share information about, among other things, cases involving the illicit trafficking of cultural goods. Few of these platforms are thought to be specific to cultural property cases, but are rather the **normal communications platforms used for all types of agency and cross-agency information sharing** (e.g. EMPACT, IMI – Internal Market Information system, WCO's ARCHEO platform). These have not been specifically profiled here and were not further discussed by informants or respondents. While communication platforms specific to sharing knowledge about the illicit trade in cultural goods across agencies and across jurisdictions might be considered, it is likely that there would be limited uptake. These platforms would represent an additional service for agents and stakeholders to monitor, potentially increasing their workload, and it is unclear what added value that specific focus on cultural goods would offer.

Bespoke smartphone applications

At least one police force has developed a public smart phone application related to combatting the illicit trade in cultural goods in Europe. The Carabinieri released their iTPC Carabinieri app in February of 2018, and it represents at least the second app that has been developed by the unit. The first is now defunct and was presumably superseded by the current app. The iTPC Carabinieri app, which is only available in Italian, allows the general public to read over 40 years of Carabinieri bulletins related to stolen cultural goods, to fill out Object ID information about a potentially stolen piece and possibly submit it to the Carabinieri for review, and to search their database of stolen cultural goods by taking and uploading a photo of a suspect artwork. This feature could not be thoroughly tested for the purposes of this study.

It is unclear how useful the application is for detecting stolen cultural goods that appear in the Carabinieri database. However, the **creation of smartphone apps that allow the general public to record and share specific information about crimes related to cultural goods with authorities should be considered**, especially in response to specific needs. A smartphone application that allows users to record incidents of looting and heritage vandalism with a photograph and GPS coordinates, for example, could be useful in some locations and would represent another form of crowdsourcing (discussed below).

5.1.2 Technological tools assumed to be in use by relevant European agencies and organisations

Social network analysis applications

Social network analysis refers generally to the investigation of human interactions through the social structures that we create. Applications used for social network analysis include both those that focus specifically on networking patterns that can be gleaned from social media, and those that can be used based on data gathered from more varied sources. Social network analysis in both these forms is known to be used by police, security analysts, and the military for various forms of crime investigation, including investigation

involving trafficking. It is assumed that such applications have been applied to the illicit trade in cultural goods, particularly for investigations which involve social media. Such applications have the capacity to greatly expand the scope of investigations of network-based crimes such as the trafficking of cultural goods by identifying links in trafficking chains. However, **privacy restrictions may restrain some agencies from conducting some forms of social network analysis without prior authorisation**, and many online social media platforms endeavour to restrict the use of automated crawlers on their sites that gather data for network analysis purposes, meaning that some forms of data gathering in advance of social network analysis must be done manually by staff.

Crowdsourcing

The term crowdsourcing has multiple meanings. In this context, the term refers to the use of various tools to gain data or information about crime from the general public. While more innovative versions of crowdsourcing, such as using large groups of online volunteers to process large amounts of data, are presented in Section 5.4 and are not thought to currently be in use among policing agencies and other stakeholders in Europe, more traditional crowdsourcing is the use of social media and other digital information platforms to publicise crimes and appeal to the public for information about the illicit trade in cultural goods and related crimes is standard practice. In England, for example, the twitter account @HeritageCrime is run by Historic England to make specific public appeals for information about the theft and destruction of cultural goods and cultural sites. It promotes the direct appeals tweeted by county-level Heritage Crime police officers and other police representatives. Many followers of this account (often dedicated researchers) share the tweets with their own networks, so it has a multiplier effect. Such basic digital crowdsourcing is a **low-cost way to publicise a crime and solicit information and evidence from a wider range of potential informants** when the particulars of an investigation allow.

Metadata analysis

Metadata analysis refers to the investigation of information tags that accompany digital files, including digital documents and photographs. Such tags can reveal identifying information about the circumstances of the file's creation and, in some cases, record the location of creation and the name of the creator. This is especially the case for image files, as digital cameras and smart phones often record a significant amount of metadata alongside any photograph taken unless the user specifically turns such features off. Metadata analysis is **quick and inexpensive and is standard practice for seized digital files**. Further, the available metadata of files related to the illicit trafficking and sale of cultural goods gained through the process of police web scraping described above should be and are likely being investigated as well. Though metadata analysis was not specifically mentioned by informants, many web crawling and scraping applications focus specifically on file metadata, making it a complementary tool.

Metadata analysis in policing and security has also come to refer to the analysis of supplemental information associated with digital and traditional communications, for example the numbers and times of outgoing calls made by a suspect's mobile phone, but

not the contents of that conversation. This type of metadata analysis has not been evaluated here.

Messaging services

While not directly referenced by informants or survey respondents in this study, informal discussions with stakeholders indicate that various types of messaging services are in use among agents, usually in the form of popular smartphone applications such as WhatsApp, Signal, and Telegram. In many cases, this constitutes unauthorised use, but the ubiquity of the applications and the ease with which they can be used to quickly transmit images and other information ensures they are used at times. **Secure smartphone based messaging that can be implemented across jurisdictions, then, is an area for future consideration and development**, not just for sharing information related to cultural goods, but for all areas of cross-border policing.

5.1.3 Potentially-innovative products on the market that are not being used, or in limited capacity, by relevant European agencies and organisations

Blockchain technology

Blockchain technology refers to applications that are based on the idea of a "blockchain", a verifiable distributed ledger of transactions. Within the art market, numerous start-up companies have adopted proprietary tagging, inventory maintenance, and transaction platforms based on blockchains, promoting them as a means through which buyers and sellers can more reliably investigate provenance and avoid buying fakes. In essence, these are tagging and database technologies, and thus can be **applied only to known and inventoried cultural goods**; there is no application for this technology for the bulk of the illicit antiquities trade, which is in unknown cultural goods that have been looted from the ground. Indeed, most of these applications use proprietary, company-controlled blockchain technologies with limited public verifiability, thereby sacrificing some of the primary benefits of blockchain. These ledgers are unlikely to remain accessible in the event that any of these start-up companies fail. Further, these applications have been **developed specifically for the market in fine art, not for antiquities**, and it is unclear what benefit blockchain-based technologies have for curbing the illicit trade in antiquities.

Satellite imagery analysis and remote sensing and monitoring

The prospect of using satellite imagery analysis and monitoring of heritage sites through use of satellite and drone technology has been shown to be potentially effective through a number of academic studies throughout the world (Brodie and Contreras, n.d.; Casana, 2015; Casana and Laugier, 2017; Caspari, 2018; Contreras and Brodie, 2010a, 2010b; Parcak et al., 2016). These **remote sensing technologies allow for changes in heritage sites**, such as looters' holes or site destruction, to be detected either by trained professionals or, to a lesser extent, by machine learning/image recognition software. Although these technologies do not directly address the trafficking aspects of the illicit trade in cultural goods, they may allow for interventions at certain sites towards protection and **could alert authorities** that cultural goods from certain sites and cultures may be about to appear on the market.

Few, if any, of these studies have been focused on Europe. Most relate to types of terrains or social situations that are not applicable in a European context. Satellite monitoring works best on arid and flat landscapes, such as coastal Peru, Egypt, and Western Asia. It is also useful in detecting large scale site destruction in both urban and rural landscapes during times of extreme armed conflict. However, this does not mean that use of satellite imagery and other remote sensing and monitoring techniques cannot be implemented in Europe, especially considering the rapid technological developments in the field, and further research into the utility of such methods to meet specific operational needs in European contexts is warranted.

Trained sniffer dogs and "electronic noses"

One of the more unusual "technologies" proposed to aid in the prevention of the illicit trade in cultural goods has been the introduction of working dogs who are trained to detect cultural goods at airports, ports, and borders. Working in a similar way to dogs trained to detect narcotics or prohibited produce, the proposed antiquities sniffing dogs would be trained to alert for smells related to objects that have recently been removed from the ground. No such dogs are currently in use, but training testing is underway in the United States. On a related note, several informants mentioned the possibility of the use of "electronic noses" for antiquities detection, though all indicated that such technology is very expensive and not in use. Electronic noses work in a similar way to detection dogs and are able to pick up the chemical signature of specific odours, with the smells associated with recently unearthed cultural goods being a possible target. It remains to be seen if either proposed method works in a real-world setting.

Tagging and tracking technologies

Various forms of marking and tagging of cultural goods have been proposed that go beyond traditional marking methods such as writing inventory numbers on the objects with ink. These methods vary in their goals, ranging from ideas for object identification to ideas for object tracking. These technologies include proposed radio-frequency identification (RFID) tags that could be scanned and, to a lesser extent, tracked; tagging in the form of clear liquid painted on the object that is invisible to traffickers but visible under certain circumstances to law enforcement or contains identifiable chemical signatures; and tags attached to objects that would, theoretically, monitor their movements in real time.

For the most part, these tagging technologies have been proposed by private companies, rather than law enforcement or other professional stakeholders, and their utility and efficacy are questionable at times. **They cannot be used for cultural goods that are previously undocumented, and in most cases there is no obvious added value in using such new tagging technologies** rather than the inexpensive and more familiar recording using traditional tags and photographs. The few informants who mentioned new tagging technology indicated that experts rejected them due to the potential damage some of them might cause to cultural goods when applied. Further, much of the information recorded in such tags are likely to be housed in proprietary databases not under the control of authorities, leading to questions of sustainability and access.

Digital scanning technology

Significant advances have been made in recent years in three-dimensional digital scanning technologies. A variety of different scanners and specific types of scanning technologies exist that are able to collect information about a tangible object and render it as a 3D model in a digital space to a high degree of accuracy. This model can be moved, manipulated, and shared, and can be used via a 3D printer to produce a physical replica of the original object. Because this type of recording is non-invasive, 3D scanning has been widely adopted by the heritage preservation community for recording heritage objects and sites, particularly those that face various forms of threats. While there is an ongoing debate in this sector about issues related to intellectual property rights, appropriation, and access related to such 3D scans of heritage items, digital scanning is widely seen as a positive development towards preservation.

With regard to combatting the illicit trade in cultural goods, digital scanning technology was mentioned by few informants. Those who did mention such technology envisioned it being used by law enforcement as, in effect, an enhanced photograph of a previously recorded cultural object that is suspected to have been stolen. If, for example, a museum held 3D scans of all of their antiquities and one of those antiquities was stolen and potentially seized, the 3D scan could be transmitted to law enforcement for more exact comparison than a photograph can offer. Such a scenario would require a significant amount of potentially expensive scanning work on the part of the museum and it is unclear if there is significant added value of a 3D scan over a traditional photograph in such a scenario. The existence of a 3D scan (and, for that matter, a traditional photograph) which proves that a cultural good is illicit or illegal is **likely to deter buyers and, potentially, thieves**, however the existence of such records must be publicised for such an effect to occur. One way to do this is to be very public about digitisation in museum and other collections, with specific wording in the press and in museum/heritage site/storage signage that indicates that the cultural goods in question are scanned (or photographed) and are, thus, unsellable.

Another potential use for 3D scanning technology lies in attempts to **match undocumented looted antiquities to their source**. In some situations, accurate digital scans of statue pedestals, tomb floors, remaining objects, and the other damaged architectural and archaeological remains that are left behind by looters could be matched to cut surfaces or other features of cultural goods on the market. In cases such as the Weary Herakles looted from Turkey (Thomas, 2012) and the Khmer statues looted from Koh Ker, Cambodia (Ece et al., n.d.), the matching of features that remained at the sites to the cultural goods in question was integral to establishing indisputable provenance. In both cases this was accomplished with plaster casts, but 3D scans would accomplish the same task more quickly and in a less potentially damaging manner. Such possibilities should be considered by law enforcement agencies on a case-by-case basis.

Finally, digital scanning technology and the resulting high-quality **3D-printed models of antiquities** has been put forward as a potential way to **satisfy market demand for cultural goods**. This reasoning posits that collectors might be convinced to purchase copies of particular pieces of ancient art instead of authentic antiquities. This does not appear to be a viable solution as it does not address the documented collector desire to

own the authentically ancient (Yates, 2015) and would likely not result in any reduction of the illicit market.

5.2 Impact, effectiveness and added value of technological tools

5.2.1 Currently used technical tools

Because this has become the common model for much of the illicit trade in cultural goods within Europe, many of the technological tools currently in use among law enforcement and related agencies and organisations focus on detecting and deterring crimes online. However, relevant agencies find it difficult to police the internet, with multiple platforms for sales stretching across both the indexable/visible and the deep/ dark web.

Naturally the visible web is perceived to be easiest for policing agencies to monitor and respond to. A number of web crawling and scraping tools (discussed above) are in use among law enforcement agencies in Europe to detect possible illicit cultural goods for sale online, and they are considered to be desirable technology among respondents and interviewees. Several of these stakeholders noted that **image recognition software**, **used in tandem with web crawlers and scrapers**, is used by certain policing agencies in Europe and **represents a useful area for further expansion with regard to monitoring sales of cultural goods online**.

Yet however promising these technologies may be, interviewees, particularly those from agencies that have already implemented the use of crawlers, scrapers, and image recognition, reported that **a trained and specialised human eye is needed to make sense of data collected by automated tools**. Several policing agencies indicate that they do not have the staffing capacity to process data produced by crawlers, scrapers or even manual searches of sales sites. Several of the policing agencies that do not use such technology and do not have the staffing capacity for manual web searching depend on tips from the public about potential illicit sales of cultural goods online; capacity and funding issues also prevent those tips from being followed up on at times. While there are many free and open source options with regards to crawlers and scrapers, implementation of those technologies requires technical skills that are often beyond the capacity of units and officers who are focused on detecting the illicit sale of cultural goods. Implementation and training, then, is often expensive and thus beyond the budgetary constraints of such units. While it is clear that crawlers, scrapers, and associated image recognition packages are considered useful and desirable by those involved in policing, the financial and staffing capacity is rarely available to implement them properly. **In other words, there is no issue with the availability and awareness of such technology solutions, but rather**

Recommendation: The EU and Member States should support set-up, training and ongoing staffing for web crawling and scraping tools. This could be done through providing funds through the Internal Security Fund (and its successor), with contributions to national efforts. In addition, at European level (further) development of this capacity at Europol could be supported, through installing a dedicated official at Europol dealing with web crawling and scraping. Furthermore, dedicated training at an EU level for CULTNET members could be organised (by countries that have the most experience).

the primary reason they are not used in a more widespread manner is a lack of funding for initial setup, training, and ongoing staffing.

Informants noted that monitoring of illicit transactions on the dark web or deep web is extremely difficult. The deep web consists of online locations that are difficult to index or blocked from being indexed meaning that the simpler crawling and scraping tools do not work. A primary feature of the dark web and darknets is anonymity, meaning agencies have limited means through which to track illicit sales to either a seller or a buyer. Considering that few, if any, antiquities have been found for sale on the dark web, even during focused efforts to find them (see Section 3.4.1 above), technologies meant to search and crawl specifically the dark web are of limited, if any, use.

Traditional databases were also considered by informants to be an important and valuable technology tool for combatting the illicit trade in cultural goods in Europe, with the potential for aiding in cross-border investigations. These databases are by no means new; however, there is some indication that **emergent technologies might be useful when paired with these databases, including "big data" analysis, network analysis, and the creation of bespoke smartphone applications for searching and submitting database entries.**

Recommendation: The EU and Member States should support the development of bespoke smartphone applications for searching and submitting database entries. These should allow frontline officers (e.g. border police, customs) to effectively and efficiently check pictures taken on the ground against available (national and international) databases. It should also be possible to seamlessly add entries into these databases. A call for relevant R&D projects could be announced under Horizon Europe.

Despite the fact that existing databases related to cultural goods are reported as being useful, stakeholders interviewed and surveyed were keenly aware of their shortcomings. It was noted by several interviewees and survey respondents that databases of stolen cultural goods were not useful in cases where the goods in question were poorly documented or undocumented, such as those illicitly looted from the ground. Such databases are only considered useful in cases of theft and trafficking of documented antiquities, such as those stolen from museums or churches. With regard to recorded cultural goods, databases depend on the quality and completeness of the data contained within them. Many require complete and detailed registration and recording of cultural objects in their country of origin in advance of any theft. Such registration has often not

Recommendation: The EU and Member States should investigate how it can make funding available for improvement of databases and their usability. Funding for maintenance and expansion of existing databases could come from the Internal Security Fund (or its successor) or a similar budget facility. Improving interoperability and automatic search through image recognition could be researched and designed under Horizon Europe.

been carried out. Furthermore, most **searching of these databases is done manually**, requiring staff time and specialised staff training in identification of cultural goods, with funds for such staff time being limited. In the same vein, **many existing databases are perceived to be underfunded**, with inadequate staffing available for support, upkeep, and development of new functionality. **Increased support for maintenance and expansion of existing databases regarding cultural goods would be welcome**.

5.2.2 Potentially innovative technical tools

Beyond technologies that are currently in use or that were identified by informants and respondents as of being of known utility in combatting the illicit trade in cultural goods, there is a plethora of new and emerging technologies that have been put forward, primarily in the popular press but also in academia, as being possibly applicable to this issue. While some informants indicated that they were aware of some of these technologies, these were rarely discussed in interviews and in survey responses. When they were mentioned, it was not without some degree of scepticism or criticism.

Speaking generally most of these new and emerging technologies have not been specifically developed with curbing the illicit trade in cultural goods in mind. Instead, they can be characterised as "technologies in search of an application": owners and developers of a particular application in search for a way to apply it come upon the issue of antiquities trafficking. Because of this, **many of these technologies do not address a defined law enforcement need**, or fill a detection or enforcement gap; instead, they address issues that may not be of direct relevance to real-world organizational needs regarding the prevention of crimes related to cultural goods. Despite much discussion of these technologies in the popular media, they may be of limited utility.

As discussed previously, most of these technologies, particularly those related to tagging and inventory tracking of cultural goods, can only be used on previously known pieces, such as those kept in museums, churches, archaeological stores, etc. Informants, survey respondents, and additional research indicates that documentable items stolen from such locations do not represent a sizable portion of the illicit market in cultural goods. Further, these documentable items are easily incorporated into traditional registry schemes which are inexpensive and in widespread use. While better ways to tag and inventory such items are certainly welcome, **the introduction of these technologies is unlikely to have much, if any, effect on the illicit trade in cultural goods**.

Recommendation: On the whole, the EU and Member States should prioritise actions that are directed at making existing solutions more effective.

All told, there was no significant divide between law-enforcement and non-law enforcement technological tools to combat the illicit trade in cultural goods in Europe. Policing and other agencies appear to be drawing from the same corpus of available technologies that the private sector and academia are drawing from. The primary divide between the two with regard to implementation appears related to cost/benefit evaluation. The needs of

academic data collection or private sector inventory tracking are different than the needs of law enforcement agencies. **With limited resources, law-enforcement agencies working in this area must restrict their use of new technologies to those that address specific gaps or operational needs**, and can only implement technologies that they have the capacity and desire to adequately staff, maintain, and sustain.

5.3   Vulnerabilities and policy needs

As mentioned previously, many interviewees and respondents concur that the primary vulnerability in this area does not rest with either a lack of technology or a lack of knowledge about technology options and solutions. It is the **lack of political will to address the issue of the illicit trafficking of cultural goods** and the **resulting lack of money** to devote to technology, including staff capacity and training, that prevents uptake. This is part of a widespread belief among stakeholders in Member States that countering the illicit trade in cultural goods is not a priority area for funding and capacity building, with few resources devoted to the issue. Money, then, is the primary obstacle that prevents the uptake and application of relevant technological tools. See also the obstacles mentioned in Section 3.3.2.

Because many technologies cited in the popular press as potential solutions to issues related to the trafficking of cultural goods are owned and promoted by "start-ups", emerging businesses with limited track records, the **long-term sustainability of many of these technologies is questionable**. The majority of start-ups fail which may render some of these technologies unsupported if they are adopted by policing agencies. This is of particular concern when the technology in question relies on a database, register, or other vital component of functionality that is privately held and maintained by the start-up. If the start-up fails, sells the technology, or otherwise leaves the market, the technology might become non-functional and all data associated with it may be lost.

Thus, the proprietary nature of much of this technology is of concern, and **proprietary applications which can be wholly administered and maintained by policing and other relevant agencies should be considered above other options**. This, however, can make such technology expensive to implement, requiring technical expertise, staffing, and continued maintenance. Indeed, open source versions of these technologies, which eliminate the drawbacks of the use of proprietary applications, also may require significant technical expertise, as well as costs related to training and maintenance. In other words, **few of these new and emerging technologies eliminate the need for significant amounts of trained/specialised human intervention or monitoring**, and as informants report a lack of agency investment in combatting the illicit trade in cultural goods, they are unlikely to be implemented.

There is also tension related to data security when evaluating and implementing the use of technological tools. Although the costs and long-term reliability and functionality of certain proprietary applications are of serious concern, some informants reported that they were barred from using open source software packages and applications. This means that the technological solutions that may be the cheapest and the most sustainable in the longer term cannot be adopted by key agencies. Such **blanket bans on open source and free software, if truly widespread, seem counterproductive**, and may reflect a poor understanding of the security and sustainability advantages of open source applications when compared to the security and sustainability drawbacks of proprietary packages. In cases where such prohibitions will not be lifted, **partnerships with academics or interested non-profit groups may allow the data from open source applications**

to be collected and processed, with the results turned over to the relevant policing or other agencies.

Recommendation: National authorities should critically assess their guidelines on the use of open source or free software in light of the balance between cost-efficiency, effectiveness and sustainability. Where it is impossible for law enforcement to work with such software, partnerships with academics and NGOs should be sought to incorporate data from open source applications. Such cooperation should come with sufficient funding.

Nominally secure smart phone communications applications, such as WhatsApp, Signal, and Telegram, were not mentioned by any of our interviewees formally. However, informal discussions with various stakeholders in recent years indicate that they are in use among relevant agents, stakeholders, etc., even in some situations where the use of such applications is prohibited. These applications represent a quick and easy way for agents to share images of and messages about suspect or seized cultural goods with other agents and, potentially, to share them cross-agency and even cross-border. The ubiquity of smart phones and the ease with which these applications informally transcend physical and linguistic barriers makes them worthy of consideration and it is assumed that they are in use for policing issues other than the illicit trade in cultural goods. Their use represents a significant potential security risk, but for the illicit trade in cultural goods specifically, the visual nature of identification of the commodity in question requires the capacity to quickly share images in a secure way: between agents, between agencies, across borders, and, at times, to stakeholders and experts who are not within law enforcement (e.g. academics for identification, museum staff, etc), in situations where speed of communication is vital.

The use of commercial communications applications may indicate a need to develop a secure smart phone messaging application for law enforcement cooperation across Member States. That said, uptake on such a system might be limited. Further, a bespoke application for communications solely about cultural goods is unlikely to be widely adopted, and its development would be a waste of resources. The appeal of pre-existing commercial communication applications is that they are in widespread use: everyone has them already and knows how to use them. This remains an open issue that goes far beyond the illicit trade in cultural goods.

Recommendation: The EU and Member States should investigate if and how a dedicated secure smart phone messaging application could be developed for European law enforcement officials. This should go beyond simply sharing information regarding the combat against illicit trade in cultural goods, and should thus be considered as a broader recommendation beyond the scope of this study.

5.4   Overall assessment

Overall, **no clear technology gap emerged from this study**. Informants and respondents rarely reported that technological tools to solve existing needs were in need of development. Evaluation of available technologies that are not currently in use or available to relevant agencies did not reveal any technology that would appear to unilaterally solve a significant issue or policing need related to preventing the illicit trade in cultural goods if adopted. The main issue related to uptake and implementation of technology in relation to this area which came up time and time again among informants was money. Reports of lack of funding for technology uptake, staffing capacity for implementation, and technology training were widespread. It is clear that useful technology tools exist and are in use in some agencies in Europe (specifically, web crawlers and scrapers, image recognition applications, and digital databases), but that this use and their further development is dependent on the resources devoted to them. **As the illicit traffic in cultural goods was widely reported to be a low priority area within relevant agencies, funding for these successful technologies is limited or non-existent**.

It is worth noting that representatives of Italy's Carabinieri, cited by several informants as consistently employing some of the more developed and widely deployed of the technologies mentioned above, stated in interview that none of the technologies in question have much operational value without a trained human eye to evaluate the results. They benefit from significantly more staffing and resources devoted to combatting the illicit trade in cultural goods than most other Member States and thus are able to assign well-trained staff to technology implementation. **No technology currently in use or identified from open source research eliminates the need for agents to be specially trained in the identification of cultural objects and the contexts in which they are traded**. Further, the increase in data that many of these technologies produce may actually increase the need for trained staff to process it, exacerbating rather than reducing the capacity limitations of relevant agencies.

Funding for the sustained implementation of existing crawling and scraping technologies for detecting illicitly traded cultural goods online may be useful as these technologies were cited as among the most promising by informants. This would especially be the case if training on the use of such technologies was delivered in the form of cross-border capacity sharing. The best way for such tools to be implemented in any setting that they have not been used in before is from direct collaboration from an existing law enforcement agency that uses them elsewhere in Europe. **Such capacity sharing for implementation and agent training has the added benefits of some degree of harmonisation of tool use across Member States and agencies**, of serving as a

communications vector for best practices, and of fostering on-going cross-border connections and collaborations between relevant agencies.

Recommendation: The EU and Member States should promote peer-to-peer learning of how to use crawling and scraping technologies for detecting illicit trade in cultural goods. Dedicated workshops should be organised, for example, through the (formalised) CULTNET, where countries leading the way in the application of these technologies are invited to show and train others. Such workshops should be open to representatives from all relevant national authorities.

A common sentiment among respondents is that changes in the ways certain existing technologies were used and maintained could improve agency, interagency, and cross-jurisdictional responses to the illicit trade in cultural goods. **Databases**, in particular, **are an existing technology where increased data sharing might lead to improved capacity for detecting illicit cultural goods** on the market or in the process of being trafficked. Increases in public, professional, and academic access to these databases may facilitate the crowdsourcing of information about illicitly trafficked cultural goods. An increase in data sharing across different national and international databases, too, may facilitate cross-border and inter-agency actions. This is not to say that all existing databases should be made available to the public and the trade, rather, **the restrictions placed on access to existing databases should be actively evaluated with an eye towards facilitating information sharing with relevant bodies and partners**.

Recommendation: To improve the added value of existing (national) databases, various types of access authorisations for different groups (other national authorities, academia, general public and the trade) should be considered and introduced.

While it is clear that some agencies are using some open source technologies, citing them as inexpensive and useful, provided they have the capacity to implement them, prohibitions against the implementation of open source technology use were cited by some informants due to security concerns. Such bans will effectively prevent the trial and use of what could be important technology, often for very little gain. It is an illusion to believe that proprietary software packages are secure and open source packages are not. Especially in cases where the transmission of protected or sensitive data is not the focus of the technology in use, open source technology should be considered. Blanket bans on open source tools should be questioned at a level beyond the scope of this study.

Funding for public/private and public/academic partnerships regarding technology development and implementation could be useful, but such partnerships must be designed to meet specific operational needs or to close enforcement and detection gaps. We must avoid the "technology looking for an application" problem, where developers of technologies attempt to apply them to the illicit trade in cultural goods in ways that do not

provide worthwhile solutions to existing issues. Uptake of such technologies is likely to represent poor benefits for the cost.

That said, **public/private and public/academic partnerships towards the development of new technologies specifically to fill enforcement and detection gaps**, and to tap into other sources of funding beyond what is directly available to law enforcement, have the potential to mitigate some of the money and capacity issues raised by interviewees. Support for such partnerships, particularly around meeting a clear and articulated need, could be fruitful.

Recommendation: The EU and Member States should make available funding for public/private and public/academic partnerships to develop new technologies. This funding should be tied to demonstrating the technology meets a proven law enforcement or provenance search/due diligence need. This funding could be made available under Horizon Europe.

As the previous chapter makes clear, these technological tools do not operate in a vacuum, and this should be considered at all times. As one of the interviewees mentioned, a change of mind-set may be necessary in some EU Member States to increase and optimise of the use of technological tools to fight illicit trade in cultural goods and to become more cooperative:

> *"Even if you have the most sophisticated technologies, you would be ineffective if countries do not have the will (mentality) and ability (due to different legislative frameworks) to cooperate. That's the issue that needs to be solved first".*

The quote underlines the main finding of the research that **the systematic approach to combating illicit trade when looked at from macro-perspective is lacking**: statistics and record keeping are very patchy and law enforcement approaches are too dependent on local circumstances and personality.

6

6. Conclusions and recommendations

This chapter provides an overview of the main findings of this study. In addition, it provides recommendations on the level of EU criminal justice responses as well as in relation to technologies that could potentially be helpful in combatting the illicit trade in cultural goods. Finally, a concrete list of action points that can be implemented by law enforcement authorities (and other relevant stakeholders) is presented.

6.1 Main findings

The presentation of the main findings of this study is divided into two sections: first our findings on the dimensions of the illicit trade in cultural goods and, second, our findings regarding criminal justice responses.

6.1.1 Characteristics of the illicit trade in cultural goods

Measuring or estimating the size of the illicit trade in cultural goods is fraught with difficulties, as insufficient data are being collected and reported from the ground up. In addition, the little data that are being recorded are not filed in a systematic manner, and data collection and recording approaches differ from country to country and across stakeholders (i.e. the police might use different ways to record statistics on the illicit trade in cultural goods than customs). There are a number of factors at play that cause the lack of (quality of) recorded data on the trade, as elaborated upon in Section 3.2. Among these are differences in priority given to the topic across countries, lack of knowledge and expertise among law enforcement officers, which in turn negatively affects the detection of cases of illicit trade, and the different definitions of cultural goods across jurisdictions. The reasons for the limited availability of data as presented in Section 3.2 boil down to a lack of awareness of and low political priority placed on the illicit trade in cultural goods.

The illicit trade in cultural goods seems to have shifted to online markets in recent decades, with profound implications for supply and demand as well as operation modes. On the supply side, it has become much easier and profitable to offer lower-value goods. Simultaneously, the demand side has grown as online marketplaces offer larger choice and ease when shopping for cultural goods. The shift to online markets has allowed sellers to shift part of the risk associated with trafficking to the buyers, as objects can be marketed without first having to be moved to the buyer's destination. Online trade has diminished the need for building personal connections to access sellers' inventories or connect with potential buyers. The increased anonymity has made the online illicit trade in cultural goods more attractive to both sellers and buyers. This relative anonymity has facilitated the (further) infiltration of the market with fakes, as buyers cannot easily verify the authenticity of an object shown online. The prevalence of fakes, in turn, thwarts the development of accurate statistics on the trade.

On the types of goods that are being traded, this study concludes that a substantial proportion of the illicit trade in cultural goods concerns smaller items that can be easily

smuggled (e.g. coins) rather than the more high-profile (and often more expensive) pieces like large statues. The shift to online trade seems to have led to an increase in the amount of small items traded.

Identifying and visualising the routes that are used to traffic goods is a complicated challenge. An up-to-date map of such routes cannot be created as trafficking routes are dynamic, responding both to legal, policy and police enforcement actions. At the same time, due to their location, certain logistical hubs acting as gateways to the European market are likely to be used for trafficking more or less consistently. Also, trafficking routes used for trafficking in cultural goods may partially overlap with those used for trafficking of other illegal goods (such as drugs, firearms). One caveat is that as traffickers of cultural goods have an interest in hiding the origin of their goods and in creating false provenances, often these cultural goods are sent on circuitous routes with many destinations in between the country of origin (i.e. where it was looted) and destination (i.e. final buyer).

6.1.2 Criminal justice responses to combat the illicit trade in cultural goods

The research has analysed what practices, tools and/or methods are deemed effective and which are less successful in contributing to combatting the illicit trade in cultural goods.

What works well

- Setting up a **specialised unit within law enforcement** focused on the illicit trade in cultural goods was identified as an example of good practice. Such units allow for accumulation of knowledge, facilitates the development of expertise and intelligence and help to establish a network of (international) colleagues, experts and informants. Specialised units serve as the main point of contact for (international) colleagues from various law enforcement agencies. As (international) cooperation often occurs under time pressure, it is beneficial to have a direct contact point to turn to in order to speed up the communication processes. It is of an added value if the officers in such units have an additional qualification in archaeology/ art history, although training on the job may be sufficient as well (this would depend on cooperation with other stakeholders, see below). The support of law enforcement by trained heritage professionals (archaeologists, museum workers, academic researchers), especially for the web monitoring but also identification of fakes and provenance research, is crucial for effective detection and investigation of illicitly-traded cultural goods;

- **Regular contacts (including face-to-face meetings) between law enforcement agencies** (e.g. police, customs, prosecutors) on the topic of illicit trade are crucial for exchange information and finding solutions to common legal, operative and practical challenges. In countries where regular meetings are organised/ institutionalised, law enforcement officers are more aware and knowledgeable about the work of their colleagues and are satisfied with the inter-agency cooperation. Not only do such meetings have a positive impact on national cooperation between the various bodies of law enforcement, they also serve to enhance the collective expertise of the officers on the topic. Law enforcement

representatives participating in such meetings indicated they improve their expertise through these sessions; they may become a de facto specialised unit even if they are not officially designated to function as such;

- Regular **cooperation between law enforcement, academics, researchers and museums** serves to complement and match legal and operative knowledge with specialist knowledge related to illicit trade in cultural goods. In particular, the operative and investigative skills and information of police is supplemented and enriched by specialist knowledge on how to determine the origin, nature and authenticity of questionable cultural goods. At the same time, academics, researchers and museum workers are alerted to relevant criminal developments. This type of interaction can take form of regular meetings and discussions, training and seminars, potentially leading to operational cooperation;

- Appointment of **one institution that is actively driving and facilitating efforts of all stakeholders** towards combatting the trafficking in cultural goods is an effective method (e.g. Carabinieri in Italy, Cypriot Department of Antiquities). Such institution should have an overall mandate to protect cultural heritage and be committed to organise, focus, coordinate and support all efforts by other actors. Such an institution does not need to be part of law enforcement, but needs to have understanding of what law enforcement does. In addition, such an institution also needs to have a vision/strategy for protection of cultural heritage. Ideally, these institutions organise campaigns, round tables, regular meetings etc. to raise awareness and share knowledge on the topic of illicit trade in cultural goods;

- **International cooperation fora** (such as INTERPOL and Europol) are perceived of as effective in reaching their desired goal. All stakeholders are aware of these fora's existence and activities, and most participate in them personally. These fora generally facilitate the exchange of information, support and/or coordinate joint operations and are involved in the development of new tools and methods for combatting the illicit trade. Law enforcement officers are aware of and use the cooperation and communication tools developed by international institutions (i.e. EMPACT). Joint operations conducted with the help of these tools were considered effective and successful.

- On an **international level, informal or personal contacts across the border are of great value**. Being able to contact a counterpart informally and/or directly helps to speed up official procedures, especially where official avenues are too slow and less effective than informal relationships. Information can be exchanged faster and more efficiently via such contacts. Moreover, since not every stakeholder can make use of official cooperation channels, informal contacts might sometimes offer the only possibility for cross-border information sharing;

- Finally, **leadership, commitment and determination** are essential when working in this domain. This study found that many experts agree that there are enough laws already in place pertaining to this issue, but their proper and effective implementation and application is lacking. Some of the examples of devoted officers and units can serve as an inspiration to others: the Dutch police unit that will

provide the permanent secretariat to CULTNET, the Spanish police unit that has initiated several European Joint Operations and the Italian Carabinieri that are leading the development and application of technological tools;

Identified (practical) difficulties

- One of the most prominent challenges to combatting the illicit trade in cultural goods is the **collection and, subsequently, sharing of relevant data**. Section 3.2 elaborates on the reasons why the recording of statistics and data on this subject is difficult, most importantly due to under-prioritising of the issue, lack of mandate for the recording of statistics and the limited awareness of the issues involved. Furthermore, the data are not shared because there are sometimes simply no data to share. Data sharing also remains a challenge because law enforcement agencies tend to work in silos and are reluctant to exchange data and information. Last but not least, understanding and agreement are lacking about what data can be shared and what can be done with information that is shared. For example, a number of police officers indicated that the relevant data about this issue cannot be shared because it contains sensitive operative information. However, such data could be redacted, and non-sensitive data could be shared. Such data could be potentially valuable for the analysis of trends and threats and for crime prevention. Another example is that customs officers are interested in data that can help them identify risks or improve their risks assessment. In order for the police to share such data, they would need to know exactly what information is required because simply opening access to police databases for customs would be ineffective. Thus, not only recording but also sharing of data is an area that should be considered for further understanding, refinement and improvement;

- Another weak aspect of the current approach towards combatting the illicit trade in cultural goods is the **opacity and lack of regulation of the art and antiquities market**. The functioning of the art and antiquities market is based on trust, and confidentiality, or even secretiveness, with regard to transaction details (e.g. prices, identities of buyers and sellers) is standard. This results in insufficient or even a lack of due diligence in relation to cultural goods and a lack of registration of transactions, and creates favourable conditions for unscrupulous dealers;

- **Differences in relevant national laws** impact the effectiveness of cross-border criminal justice responses. National differences exist due to a number of factors, not all of which can be easily overcome easily. They include different legal traditions and approaches across (European) countries, inconsistent implementation of EU-level directives, different transposition or the lack of ratification or transposition of the major international and European legal instruments: the UNESCO, UNIDROIT, and Nicosia Conventions. This hampers mutual legal assistance, complicates cross-border cooperation and allows criminals use the differences to their advantage;

- The past decades have seen **the illicit trade in cultural goods increasingly move online**, for all items but the most exclusive. The internet has lowered barriers to entry for would-be sellers. It also made (illicit) cultural goods accessible for an

exponentially larger group, resulting in a larger demand for especially small inexpensive objects which can be easily shipped. To a large extent, the internet has made the need for personal connections to access all but the most high-value illicit cultural goods obsolete. This shift to online sales has increased difficulties for law enforcement, as it is easy to set up anonymous or pseudonymous accounts to buy and sell items and sites where items are on offer have proliferated. Law enforcement is at a disadvantage as regulation is still catching up to the reality of online sales, and there is insufficient capacity to monitor online sales (as well as follow up through investigations). Incidentally, the shift to online sales and associated scope for (pseudo-)anonymity has also made it easier to insert fakes in the market, as an authenticity analysis cannot be performed on pictures alone, and are anyway often relatively too expensive for low value purchases;

- While there are a number of technological tools that can support the work of law enforcement, **technology alone cannot solve the problem** of illicit trade in cultural goods. Our analysis shows that many technologies that currently exist can help with the investigation of crimes related to cultural goods that are known to be stolen (e.g. cultural goods that are inventoried/ registered). However, most illicitly traded cultural goods are unknown and undocumented items, which significantly limits usefulness of existing technological solutions. While some existing technologies can help better detect suspicious cultural goods, solid expertise and investigative skills are likely to remain the cornerstone of the effective criminal justice responses. Considering the complexity of the phenomenon of the illicit trade in cultural goods and the reported lack of resources of the competent authorities, more investment in law enforcement capacity is necessary.

6.2 Recommendations

Based on the analysis of best practices and shortcomings of current criminal justice responses to this issue, we have developed a number of recommendations that could enhance the effectiveness of the efforts made to combat the illicit trade in cultural goods.

Recommendation 1.

Raise the profile of the problem and dedicate appropriate resources

Raising the profile of the problem politically is central to enhancing efforts towards combatting the illicit trade in cultural goods and goes hand in hand with raising awareness among a broad range of stakeholders (Recommendation 2). These efforts need to be directed at the national level because Member States are primarily responsible for competences, structure and resourcing of the criminal law enforcement.

What the EU can do

- ✓ Showcasing best practices related to combatting illicit trade in cultural goods, which would act as peer pressure on countries. Such best practices could relate to engaging in awareness campaigns; delivering comprehensive, inclusive and innovative training and workshops; developing interesting cooperation set-ups and other.
- ✓ 'Naming and shaming' countries that do not collect or report data on the illicit trade in cultural goods, that are slow to implement relevant EU directives or who have not ratified or ratified but not (effectively) transposed the UNESCO, UNIDROIT and Nicosia Conventions, as a form of peer pressure.
- ✓ Support the creation of a specialised unit at EU level (for example at Europol, or an EU agency) to combat the illicit trade in cultural goods. This would elevate the issue symbolically and also be of an operational value for Member States. Such units should work closely with CULTNET as this informal network has already established an international community regarding this issue, as well as with customs, public prosecutors and renowned experts in the field.
- ✓ Support the development of the dedicated unit within Europol in order for it to become a permanent entity.
- ✓ Emphasise the link between trafficking of cultural goods, organised crime and, when the opportunity presents itself, terrorism. The EU should encourage the implementation of the relevant UNSC resolution across Member States.

What Member States can do

- ✓ Member States should establish a dedicated contact point for cultural heritage crime in their law enforcement bodies (police, customs, prosecutors office). This can be an entire team or a single individual (who also has responsibilities in other areas).
- ✓ Member States should establish an inter-agency cooperation mechanism facilitating the contacts between the relevant authorities
- ✓ Member States should establish a national database of stolen and missing cultural goods, and such database should be linked to the INTERPOL database by a regular reporting. All national authorities that come across (illicit trade in) cultural goods should contribute to and consult this database.
- ✓ In addition, Member States should develop a national 'red lists' of their cultural heritage objects most at risk of illicit trafficking. The relevant national authorities should be trained in using these red lists.
- ✓ Make reporting of cases concerning the illicit trade in cultural goods mandatory for all involved law enforcement bodies using a standardised collection template, and make a separate code for it in the relevant crime reporting systems, so statistics can be easily extracted.
- ✓ Be more vocal about the actions of law enforcement efforts and their results (without being of harm to the operative work).
- ✓ Train staff at national logistical hubs to recognise illicit trade in cultural goods more effectively

Recommendation 2.

Raise awareness to trigger a virtuous circle

Awareness raising efforts should cover various groups of stakeholders, from the general public to art collectors to dealers to law enforcement. Journalists, social media influencers in the heritage field, and bloggers should be targeted as well as they play an important role in conveying information and framing public debates. Cultural heritage professionals, art historians and archaeologists should all be alerted against the implications of illicit trade in cultural goods. Professionals that can facilitate the illicit trade should also be reached out, including postal services providers, removal companies, diplomatic and military staff, online marketing places, insurance companies etc. Information conveyed should be tailored and relevant for each target audience. It is essential to open a dialogue with the target audience about what its interest in combatting illicit trade in cultural goods is and how they can contribute. It is crucial that the information communicated is correct, and one should steer away from exaggerations and scandalous or premature conclusions. Even though, as indicated by interviewees, connecting illicit trade in cultural goods with terrorist financing has made the issue more prominent, it has taken public and policy focus away from other important and persistent aspects of the phenomenon, has alienated industry stakeholders, and has contributed to the misdirection of resources.

What the EU can do

- ✓ Organise regular EU-wide awareness campaigns targeting various stakeholder groups. This includes producing visual information and communication materials, and developing common messages that can be used across the EU and at EU representations abroad (including embassies of the Member States).
- ✓ Coordinate and amplify national awareness raising campaigns, by re-translating national messages through EU-wide channels (e.g. Twitter accounts).

What Member States can do

- ✓ Task a dedicated agency (e.g. Ministry of Culture) with creating and conducting awareness raising campaigns for various national stakeholders as appropriate for the national context
- ✓ Cooperate with other countries (regionally or bilaterally) to organise joint awareness raising campaigns for specific types of stakeholders (e.g. tourists)
- ✓ Invest in relationship with postal services and online platforms by providing training about illicit trade in cultural goods

Recommendation 3.

Improve the evidence base towards understanding the phenomenon of illicit trade in cultural goods

As this study has shown, many fundamental issues related to dimensions of illicit trade in cultural goods remain unclear, and are contested by different experts and by different stakeholders. These need to be further investigated to produce more solid evidence and further studied to generate better analyses and knowledge. Such investments need to be mindful of and address the obstacles described in this report. The evidence gained through such research will help to establish a common ground, to enhance public discussion, to develop (international) criminal justice responses and to engage with different stakeholders.

What the EU can do

✓ Announce relevant calls for research grants under the Horizon Europe, particularly for research projects into topics related to provenance research and due diligence; the scope and scale of the market for small and portable cultural goods (e.g. coins) including evaluation of harms; the relationship that the illicit trade in cultural goods had with the trade in other illicit commodities; and extensively describing, defining, and quantifying the illicit trade within individual member states.

✓ Procure focused studies to measure the size of the licit and illicit market in cultural goods, to investigate trafficking routes, to analyse further ways for harmonising national laws and on other topics. Such studies should be well resourced and allow for sufficient time for data collection and research.

✓ Make the compiling of statistical data on the offences related to illicit trade in cultural goods mandatory in all EU Member States and encourage this in on-EU countries.

✓ Agree on common criteria for gathering statistical information on illicit trade in cultural goods at EU level.

✓ Encourage collaboration with (academic) experts outside law enforcement, especially archaeologists. Funds should be made available to facilitate this cooperation.

What Member States can do

✓ Encourage national research by offering research grants covering various aspects of trade in cultural goods, including criminal and financial aspects

✓ Establish a dedicated chair or research centre

✓ Involve all relevant national authorities in the process of data collection on illicit trade in cultural goods.

✓ Discourage the rotation of experts in law enforcement authorities in order to reduce the loss of knowledge in this highly specialised field.

Recommendation 4.

Enhance transparency of the art and antiquities trade

Increased scrutiny of the art and antiquities market, including by imposing transparency obligations via legislative measures, can greatly contribute to decreasing illicit trafficking of cultural objects into the EU. Ideally, every cultural object on the market should be traceable thanks to registration obligations. This would also be beneficial for art collectors who would enjoy the security that robust and transparent provenance checks provide. The EU is encouraged to explore novel approaches to the licensing of the art market, however, it should be aware of previous (failed) attempts and take into account the lessons learned in this regard.

Furthermore, it is also important to establish a dialogue with the art trade sector to better understand its functioning and structure, which is fundamental to combatting the illicit trade. The art industry should not be perceived as homogeneous; different sectors exist within it that are affected by illicit trade to different degrees (or have different problems). The trade also is comprised of different types of actors (especially in the context of the online trade) who have different willingness, motivation, and ability to cooperate. The large number of small marketplaces, fora and websites make it hard to establish a positive relationship with the trade. Moreover, the poor relationship between law enforcement agencies and industry hinders effective implementation of efforts to address the illicit trade in cultural goods.

What the EU can do

- ✓ Investigate what legislative measures can be adopted at the EU level to improve transparency of the art industry.
- ✓ Support the development of an EU wide, comprehensive, compulsory digitised art register to register all transactions of art and antiquities.
- ✓ Develop a legal definition of acceptable provenance.
- ✓ Consider novel approaches to licencing the art market, taking into account the reasons why previous attempts failed and paying sufficient attention to ensuring oversight and control.

What Member States can do

- ✓ Adopt national legislation to improve traceability of cultural goods, for instance by establishing national registries for transactions in cultural goods
- ✓ Implement the Fifth Anti-Money Laundering Directive in such way that it applies to art dealers and free ports
- ✓ Adopt national legislation obliging art dealers to follow clearly defined due diligence guidelines

Recommendation 5.

Investigate how regulation and monitoring of online sales can be improved

As an increasingly large portion of illicit trade in cultural goods has moved online, the need for regulating and monitoring online sales has increased accordingly. In line with the previous recommendation, the goal should be to increase transparency and reduce the scope for illicit sales of cultural goods. Sellers of cultural goods should be required to maintain registries with details of transactions. Online marketplaces could be subjected to special (self-)regulation involving e.g. automatically checking images against available databases of stolen cultural goods and 'red lists' of endangered cultural property; automatic alerts to bidders and potential buyers of the risk of buying illicit items; automatically flagging suspicious items and transactions to dedicated police contact points.

As many of the sold items – especially coins and other small items – are moved through regular postal services, authorities should invest in their relationship with these organisations. Tailored training and awareness raising measures should be considered so that illicit cultural goods can be detected and intercepted.

What the EU can do

- ✓ Investigate what legislative measures can be adopted at the EU level to improve monitoring of online sales.
- ✓ Support the development of an EU wide, comprehensive, compulsory digitised art register to register all transactions of art and antiquities.
- ✓ Support the development of European guidelines for relevant actors such as postal services and online marketplaces to combat illicit trade in cultural goods

What Member States can do

- ✓ Adopt national legislation to improve traceability of online sales of cultural goods, by imposing obligations on sellers to register transactions
- ✓ Promote self-regulation by online marketplaces in the field of cultural goods sales and, if this does not materialise within a set timeframe (e.g. 1 or 2 years) or is ineffective, adopt national legislation that imposes obligations for online marketplaces tailored to combatting illicit trade in cultural goods
- ✓ Make available sufficient funds and manpower for law enforcement authorities to monitor online markets effectively, including through the use of technological tools such as webcrawlers
- ✓ Invest in awareness raising and training activities with postal services, to increase detection and interception of illicit cultural goods being transported

Recommendation 6.

Encourage cooperation and data sharing between different law enforcement agencies at the national level

As data exchange is essential for crime prevention and investigation, information sharing should be fostered and enabled through different channels, among different stakeholders and at different levels. Cooperation and data sharing across law enforcement agencies at the national level should be a national priority.

Inherent to the success of data sharing across countries is the interoperability of the different national databases. Currently, information cannot always be exchanged as a result of the different and incompatible ways that information is recorded. To this end, it is recommended various existing national databases (i.e. national databases with the INTERPOL database) be interlinked in order to develop a much larger dataset that can be searched.

In addition, the structure of (some) databases should be revised. Where appropriate, databases that are currently closed could be partially opened to the general public and to industry. Similarly, agency databases could be made more open for use by other agencies (e.g. between police and customs, between neighbouring countries' law enforcement agencies). Different modes of access to and control over data can be established for different categories of users in order to only provide access to appropriate information so that available data can be used more widely while, at the same time, sensitive information can be safeguarded.

What the EU can do

- ✓ Develop a template for data recording that can be used by the police and customs to gather statistics on illicit trade in cultural goods in a consistent manner
- ✓ Investigate ways to promote the central collection of all relevant statistics. Europol could play a supporting role to this collection process on the side of national law enforcement authorities.

What Member States can do

- ✓ Set up regular meetings between relevant stakeholders (e.g. police, customs, public prosecutors, researchers), as required by the training, information and operative needs
- ✓ Link national databases of stolen and lost cultural goods to international databases
- ✓ Establish data sharing pathways between the police and customs databases
- ✓ Make (parts of) national databases accessible to the public and industry
- ✓ Make law enforcement and customs authorities responsible for the maintenance of the databases and allocate sufficient funds for these activities.
- ✓ Make the usage of SIENA obligatory for law enforcement officers when exchanging information about cases on a bilateral basis. In addition, the relevant Europol unit should be copied in.

Recommendation 7.

Align and link national inventories of cultural heritage, museum databases and law enforcement databases

Building on Recommendation 7, the further interlinking of national inventories of cultural heritage, museum databases and law enforcement databases should be aspired to. With increased integration, databases could become more easily accessible and widely used. Restrictions on data sharing can be applied in order to safeguard certain types of sensitive information. Nevertheless, police databases should be able to access and integrate all necessary information from national inventories of cultural goods. Ideally, the police database would automatically check the inventories of theirs and other countries when an object has been seized or found as well. Artificial intelligence could be of help here as algorithms could cross-check different databases for images/ descriptions. Alternatively, one portal could be established which grants access to all relevant databases; ideally such a portal would be hosted with Interpol or another central agency tasked with coordinating research into the illicit trade in cultural goods to ensure a worldwide coverage.

What the EU can do

- ✓ Support integration and interoperability of various national inventories and databases by procuring the development of standards and rules, if necessary, for cross-border data sharing
- ✓ Liaise with the Member States and INTERPOL on the creation of a database portal

What Member States can do

- ✓ Interlink various national inventories and databases with each other
- ✓ Ensure the national inventories and databases can also exchange data with the INTERPOL database
- ✓ Investigate if/how artificial intelligence could be applied to improve cross-database searching

Recommendation 8.

<u>Invest in technical expertise and technical endowment of law enforcement</u>

With regards to the application of (novel) technologies, it is essential to strive to achieve an equal level of technical endowment across Europe. Currently, some national police forces are still using relatively old software and cannot investigate and cooperate with others on equal footing which, in turn, hinders effective investigation.

When elevating the level of technological advancement in a Member States, investments in the technical expertise of police officers in specialised units is required. The tools used in investigations can be complex and, therefore, staff needs to be trained adequately. In addition, the application of web crawlers and image recognition software should be anticipated and staff should be trained in dealing with analysis of the resulting data.

Moving forward, investments in the use of artificial intelligence, particularly in machine learning, is recommended. Such investments could be done in a public-private partnership and/or the resources of all or several Member States can be pooled and a joint tender announced. Alternatively or additionally, a tender can be announced by the European Commission or it could be a project financed via Horizon Europe.

What the EU can do

- ✓ Monitor the development of the technological capacity across the EU
- ✓ Support and encourage the adoption of innovative technologies by national specialised units by offering the necessary training (for example, through CULTNET or in cooperation with INTERPOL)
- ✓ Investigate whether a tender or a call under Horizon Europe can be issued to boost the application of artificial intelligence to this issue
- ✓ Support the training of staff for web crawling and scraping tools (through the Internal Security Fund and its successor)
- ✓ Encourage the instalment of a dedicated official at Europol dealing with web crawling and scraping.
- ✓ Support the development of bespoke smartphone applications for searching and submitting database entries and, subsequently, to support the usage of those tools among frontline officers.
- ✓ Promote peer-to-peer learning of on data scraping and web crawling for detecting illicit trade in cultural goods. Workshops could, for instance, be organised through CULTNET.

What Member States can do

- ✓ Invest in technological equipment of specialised units
- ✓ Provide adequate training for staff in the application of novel technologies
- ✓ Cooperate in the joint development of advanced technological capabilities across the EU
- ✓ Encourage partnerships between law enforcements, academics and NGOs in working with open source data and free software (where possible). Sufficient funding should be awarded to facilitate such cooperation.

Recommendation 9.

<u>Acknowledge the strengths of different approaches and allow for flexibility across different EU Member States</u>

There is no "one size fits all" solution the problem of trafficking in cultural goods in each country. It would be valuable to acknowledge the strengths of different approaches that suits best to national circumstances. For example, not every country needs or can afford the type of specialised police unit that Italy has. Some countries may be well served by a small unit or a unit that combines expertise in several related crime areas. At the same time, countries with more expertise and knowledge should be encouraged to lead by example and to experiment with different technical, operative and cooperation solutions in order to inspire others to innovate as well. The countries with more available resources and expertise are also better positioned to become pioneers for further developments in criminal justice cooperation. They would need less resources/ investment to make the qualitative jump.

What the EU can do

- ✓ Allow for flexibility across Member States
- ✓ Support pioneering and outstanding practices, for example, by publicising them and/or establishing an achievement award
- ✓ Support cooperation between Member States both to share experiences and to develop and try different technical, operative and cooperation solutions

What Member States can do

- ✓ Member States with a well-developed approaches towards art crime can promote their strategies and inspire and support other Member States in the development of their national approach
- ✓ Member States that are in the process of developing their approach towards cultural heritage crimes need to be receptive to best practices developed by other Member States.

Recommendation 10.

Continue addressing the root causes of the problem

In the case of the illicit trade in cultural goods, efforts have already been made to mitigate some of the causes of illegal excavations (i.e. through capacity building, technical assistance, etc.) in countries during times of armed conflict. To further intensify these efforts, a key recommendation would be to establish a special unit and/or special measures to be implemented in conflict zones for protection of cultural heritage there. An example of such measure could be the Cultural Property Protection Unit established by the UK which will be deployed to war zones where art and archaeological sites are at risk.

Furthermore, the root causes of the illicit trade need to be addressed within the EU as well. They include discrepancies and loopholes in legislation, lack of consistent implementation of the international legal instruments, lack of monitoring of excavation sites and related issues.

What the EU can do

- ✓ When joint military and civilian EU missions and operations to crisis zones are planned, recommend that the participating Member State establishes a special unit for the protection of cultural heritage and coordinate their efforts to this end
- ✓ Study the discrepancies in national laws that encourage illicit trade in cultural goods and suggest legislative and other measures to eliminate them
- ✓ Monitor the ratification and transposition of the relevant international conventions in national laws and 'name and shame' those Member States that do not effectively implement the conventions
- ✓ Introduce a common definition of (illicit trade) in cultural goods (which would ideally be adopted globally).

What Member States can do

- ✓ Provide special training to diplomatic, military and police staff deployed to third countries
- ✓ Study the root causes of illicit trafficking specific to the Member State and introduce measures to eliminate them (e.g. introduction of regular monitoring and controls of free ports)
- ✓ Ratify and transpose in the national law the UNESCO Convention, the UNIDROIT Convention and the Nicosia convention to reduce legal loopholes
- ✓ Apply foreign aid to the development of sustainable heritage preservation practices and the creation of local income streams beyond looting and trafficking in regions known to be sources for the illicit trade in cultural goods

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Annex 2 Interviews

The table below provides an overview of the interviewees with whom the research team has spoken.

Table A2.1   Overview interviewees

	Name	Organisation	Stakeholder category
	First round of interviews (scoping interviews)		
1	Marja van Heese	Cultural Heritage Inspectorate, Ministry of Education, Culture and Science, the Netherlands	Government
2	Anonymous	nn	Customs organisation
3	Anonymous	nn	Law enforcement
4	Anonymous	nn	Law enforcement
5	Colonel Alberto Deregibus	Carabinieri, Ministry of Defence, Italy	Law enforcement
6	Martin Finkelnberg	National Police, the Netherlands Coordinator CULTNET	Law enforcement
7	Alberto Rodao	Guardia Civil, Spain	Law enforcement
8	Anonymous	Europol	Law enforcement
9	Anonymous	Nn	Museums
10	Arthur Brand	Artiaz	Art consultant
11	James Ratcliffe	Art Loss Register	Industry
12	Jean-Robert Gisler	University of Freiburg, formerly investigator Cultural Heritage Unit, Federal Police Switzerland	Researcher
13	Vincent Geerling	Head of IADAA	Art dealer
	Second round of interviews		
14	Barbora Kubikova	Czech Law Enforcement	Law Enforcement
15	Christian Klein	German (Munich) Law Enforcement	Law Enforcement
16	Anonymous	Romanian Law Enforcement	Law Enforcement
17	Kenneth Didriksen	Norwegian Law Enforcement	Law Enforcement
18	Anonymous	Swedish Law Enforcement	Law Enforcement
19	Anonymous	Slovenian Law Enforcement	Law Enforcement
20	Anonymous	Nn.	Law Enforcement
21	Anonymous	Nn.	Customs
22	Anonymous	Nn	Nn
23	Joanna van der Lande	Antiquities Dealers' Association	Industry
24	Bernd Schober	German (Baden Württemberg) Law Enforcement	Law Enforcement

	Name	Organisation	Stakeholder category
25	Dietmar Möllman	German Customs	Customs
26	Anonymous	Nn.	Nn.
27	Anonymous	Nn.	Customs
28	Anonymous	Office of EU Counter Terrorism Coordinator	Nn
29	Anonymous	Nn.	Researcher
30	Vojko Otovic	Slovenian Customs	Customs
31	Anonymous	Austrian Law Enforcement	Law Enforcement
32	Gordana Križanić	Representative of the Croatian Public Prosecutor's Office	Public Prosecution
33	Anonymous	Nn.	Nn.
34	Anonymous	Nn.	Nn.
35	Anonymous	Eurojust	Public Prosecution
36	Efthymia Alphas	Department of Transport, Communication and Works, Cyprus	Government

Annex 3 Overview of the survey results

A3.1   Participants

Out of 144 respondents that were asked whether they had knowledge of illicit trade in cultural goods in their country, 63 (44%) indicated 'yes' (see table).

Table A3.1   Overview survey respondents

Stakeholder group	Participation	No indicating 'no knowledge of illicit trade'	Percentage
Government	5	1	20%
Law Enforcement	10	0	0%
IGOs	7	2	28.6%
Legal Practitioners	2	0	0%
Museums	19	9	47.4%
Researchers	29	9	31%
NGOs	6	0	0%
Collectors	33	27	81.8%
Art Consultants	6	4	66.7%
Dealers	27	20	74.1%

This subgroup was asked which factors facilitate illicit trade in their country. Below, we present an overview of the responses per factor considered.

When distributing the survey among the CULTNET members at their annual meeting, 13 participants responded to the survey. Among those, there was 1 customs representative and 12 law enforcement representatives. All indicated that they have knowledge of illicit trade in cultural goods.

A3.2   Structure

The rest of this Annex shows the responses of the stakeholder groups 'Law Enforcement', 'Researchers' and 'Dealers', as these are instructive of wider differences between groups and because these have a (relatively) representative N (number of responses). In addition, the responses provided during the validation phase (the survey distributed at the CULTNET meeting) are presented in separate tables and figures to allow for easy comparisons between the different groups.

This breakdown is followed by an overview of the insights provided by respondents based on the role their respective country plays in the illicit trade chain. The countries are categorises as being source, transit or destination countries with some countries belonging to more than one category. The categorisation of these respondents is as follows:

Table A3.2   Distinction on place in chain (overlap possible)

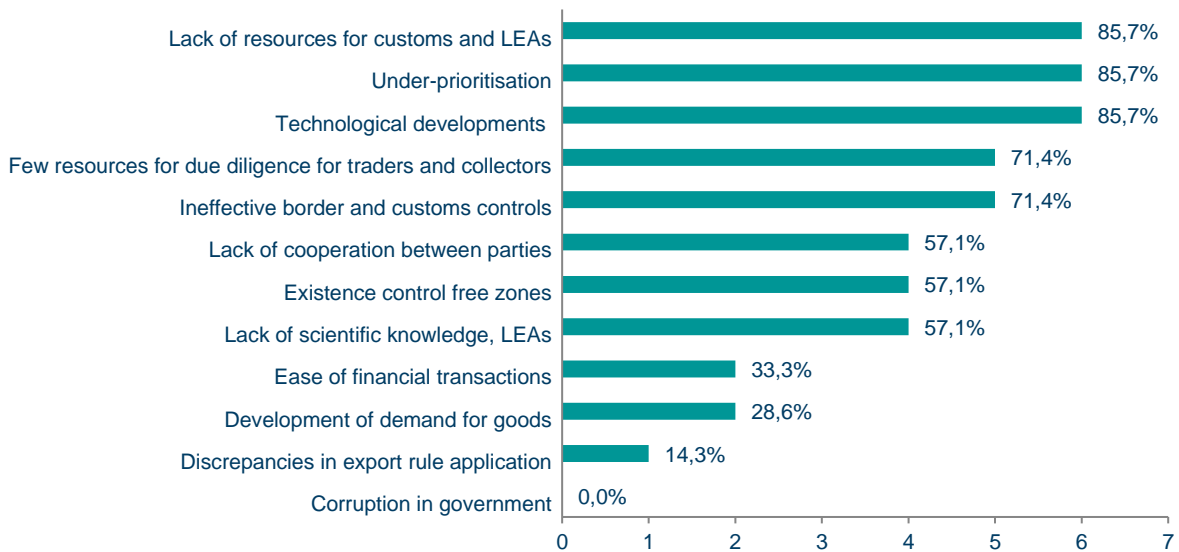| Source	Transit	Market
Australia	Albania	Australia
Bosnia and Herzegovina	Austria	Austria
Bulgaria	Belgium	Belgium
Cyprus	Bosnia and Herzegovina	Canada
Georgia	Bulgaria	Denmark
Iran	Czech Republic	Finland
Italy	Estonia	France
Macedonia	Georgia	Germany
Malta	Germany	Iceland
New Zealand	Iran	Ireland
Pakistan	Italy	Luxembourg
Poland	Latvia	Netherlands
Romania	Macedonia	New Zealand
Serbia	Netherlands	Norway
Spain	Pakistan	Russia
Turkey	Poland	Sweden
	Romania	Switzerland
	Serbia	United Kingdom
	Slovenia	United States
	Spain	
	Switzerland	
	Turkey	
	United Kingdom	
	United States	

A3.3   Responses by stakeholder category

This section provides an overview of the survey responses by stakeholder category as well as those provided during the validation exercise at the CULTNET meeting.

A3.3.1 Criminal organisation and operation of the trade

Law Enforcement

In the figure below, the different factors are shown which may contribute to facilitating illicit trade. For each specific factor the figure indicates how many respondents have indicated it 'very much' or 'extremely' facilitates illicit trade.

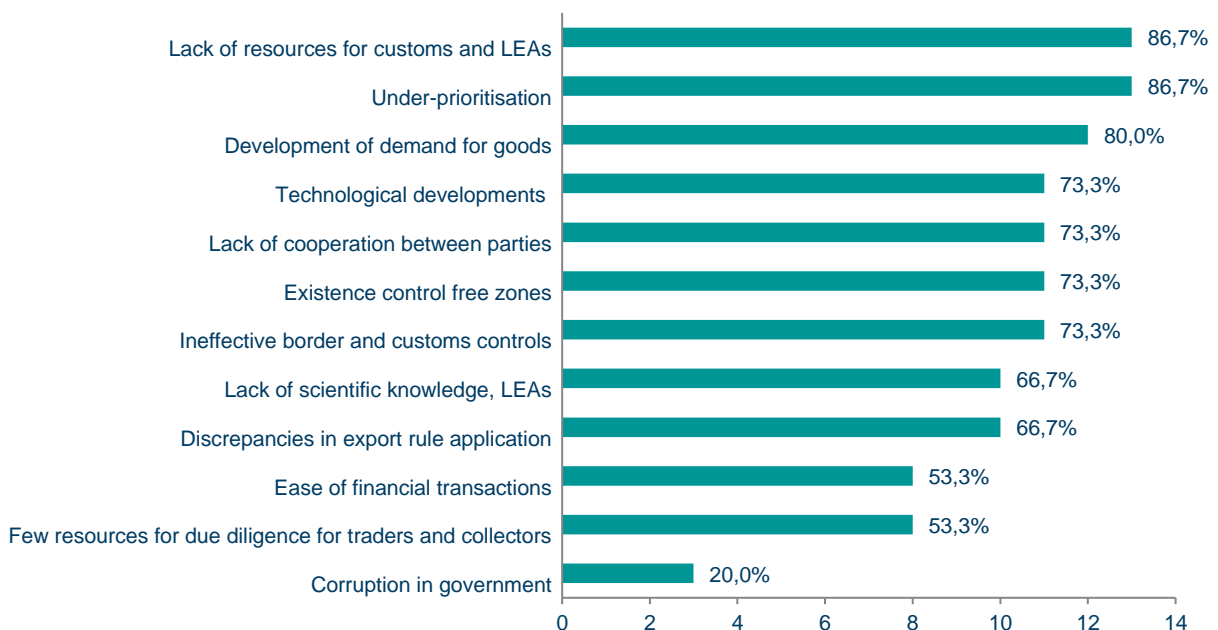**Figure A1.1   Factors facilitating illicit trade according to LEAs, N = 7**

Factor	Value
Lack of resources for customs and LEAs	85,7%
Under-prioritisation	85,7%
Technological developments	85,7%
Few resources for due diligence for traders and collectors	71,4%
Ineffective border and customs controls	71,4%
Lack of cooperation between parties	57,1%
Existence control free zones	57,1%
Lack of scientific knowledge, LEAs	57,1%
Ease of financial transactions	33,3%
Development of demand for goods	28,6%
Discrepancies in export rule application	14,3%
Corruption in government	0,0%

* Please note: N = 6 for ease of financial transactions

Researchers

In the figure below, the different factors are shown which may contribute to facilitating illicit trade. For each specific factor the figure indicates how many respondents have indicated it 'very much' or 'extremely' facilitates illicit trade.

Figure A1.2   Factors facilitating illicit trade according to researchers, N = 15

Factor	Value
Lack of resources for customs and LEAs	86,7%
Under-prioritisation	86,7%
Development of demand for goods	80,0%
Technological developments	73,3%
Lack of cooperation between parties	73,3%
Existence control free zones	73,3%
Ineffective border and customs controls	73,3%
Lack of scientific knowledge, LEAs	66,7%
Discrepancies in export rule application	66,7%
Ease of financial transactions	53,3%
Few resources for due diligence for traders and collectors	53,3%
Corruption in government	20,0%

Dealers

Four dealers answered questions regarding factors that facilitated illicit trade in cultural goods. Their answers are shown in the table below.

- Generally, the respondents indicated that all factors were slightly or not at all of influence;
- Furthermore, dealers responded 'don't know' relatively often to the questions concerning factors that facilitate illicit trade.
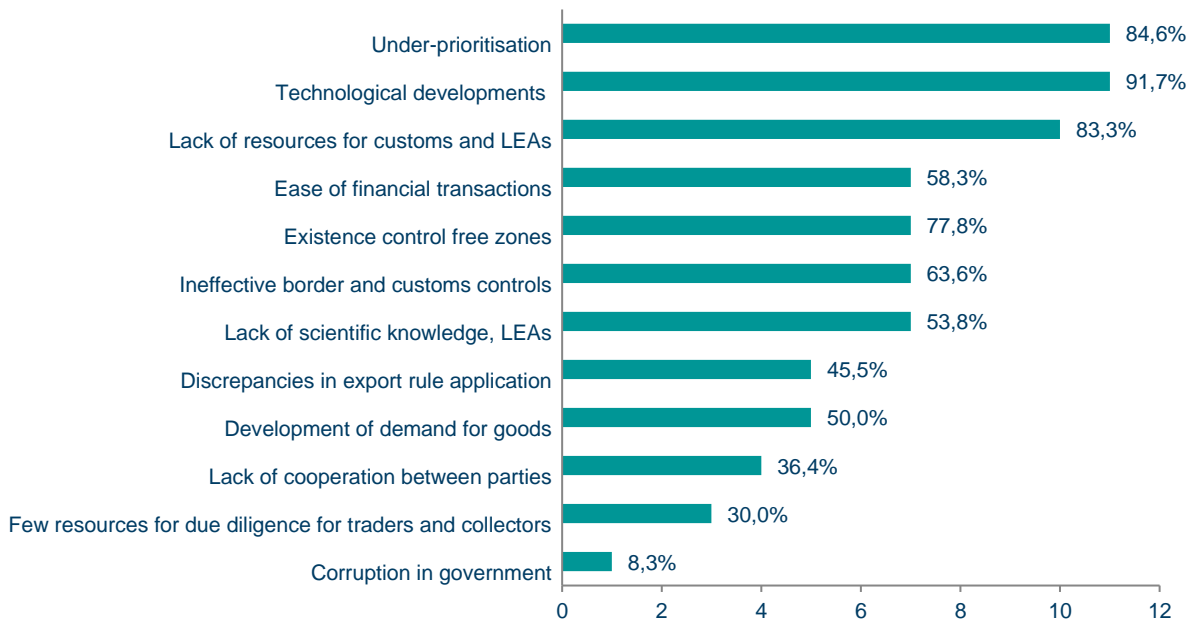
Table A1.2   Factors that facilitate illicit trade, N = 4

	Extremely	Very	Moderately	Slightly	Not at all	Don't know
Corruption in customs, law enforcement and government oversight agencies		1			2	1
Development of demand for specific cultural goods on the market					3	1
Lack of scientific knowledge to detect falsifications on the part of LEAs				1	1	2
Ease of financial transactions (real-life, mobile payments et cetera)					3	1
Discrepancies in the application of export rules by Member States		1		1	1	1
Few resources to implement appropriate due diligence for traders and collectors			1		2	1
Existence of control-free zones (e.g. due to conflicts)	1	1	1			1
Ineffective border and customs controls				1	2	1
Lack of cooperation between all interested parties (police, customs, NGOs, dealers)		1		2		1
Lack of resources for customs and law enforcement (time, people, money)			1	1	1	1
Under-prioritisation of the issue					3	1
Technological developments (internet, social media, metal detectors)			1		2	1

Validation group

In total, 11 participants of the CULTNET meeting answered the question on factors that facilitate illicit trade. The responses by the validation group show that technological developments, under prioritisation of the issue and the lack of resources for customs and LE play a significantly big role in the facilitation of the trade. On the other hand, the lack of cooperation between interested parties, discrepancies in the application of export rules and corruption in customs, ILE and government oversight agencies is indicated to not facilitate the trade at all.

Figure A1.3   Factors facilitating illicit trade according to validation group[77]

Under-prioritisation	84,6%
Technological developments	91,7%
Lack of resources for customs and LEAs	83,3%
Ease of financial transactions	58,3%
Existence control free zones	77,8%
Ineffective border and customs controls	63,6%
Lack of scientific knowledge, LEAs	53,8%
Discrepancies in export rule application	45,5%
Development of demand for goods	50,0%
Lack of cooperation between parties	36,4%
Few resources for due diligence for traders and collectors	30,0%
Corruption in government	8,3%

A3.3.2 Material parameters of the trade including volume, value, typology

Figure A3.4 below, presents the perceptions vis-à-vis changes in the nature of the illicit trade in cultural goods since 2000.[78] It shows that law enforcement respondents are divided in their opinion on whether there have been changes or not, while museums and researchers tend to agree that these origins have changed since 2000.[79] Although we should interpret these results with caution in light of the number of participants, these responses seem to indicate a broad consensus among the four groups that the value of the trade has not decreased in the past 19 years, and that it is likely to have increased.

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[77] The N of each answer option differed. From top to down, the N for each option is: 11, 11, 10, 7, 7, 7, 7, 5, 5, 4, 3, 1
[78] This question was not part of the questionnaire distributed at the CULNET meeting.
[79] Which may be because museum and research staff have less rotation and been in post longer.

Figure A1.4   How has the nature of illicit trade in cultural goods developed since 2000? The origin of illicitly traded goods has changed/ stayed the same (N = 28)
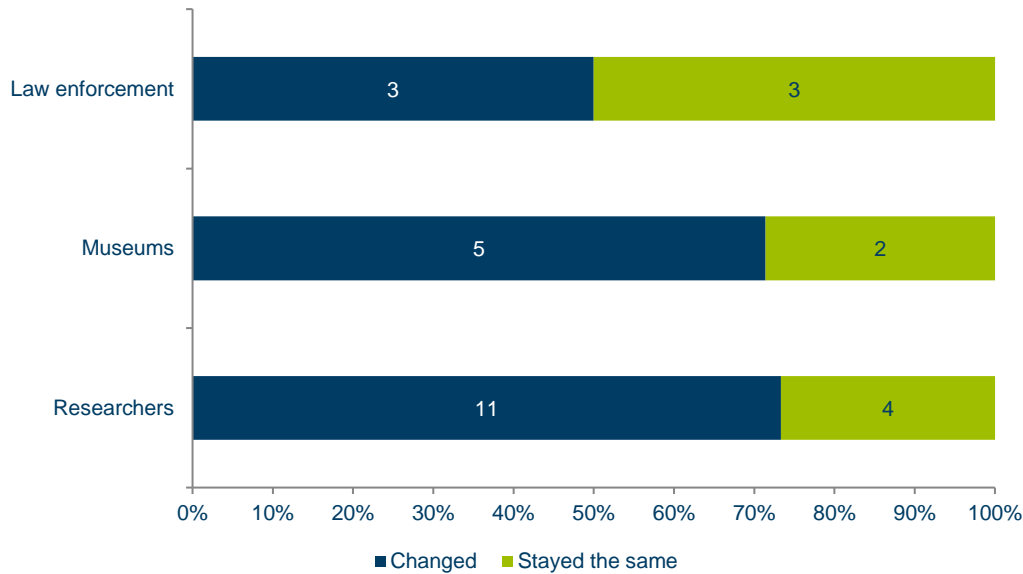

Figure A3.5 shows that there is a general consensus with regards to the change in value of the illicit trade in cultural goods. The majority of all respondents, including the validation group, agree that the value of the illicit trade has (significantly) increased.

Figure A1.5   How has the value of illicit trade in cultural goods developed since 2000? (N = 27, N = 10 for validation group)
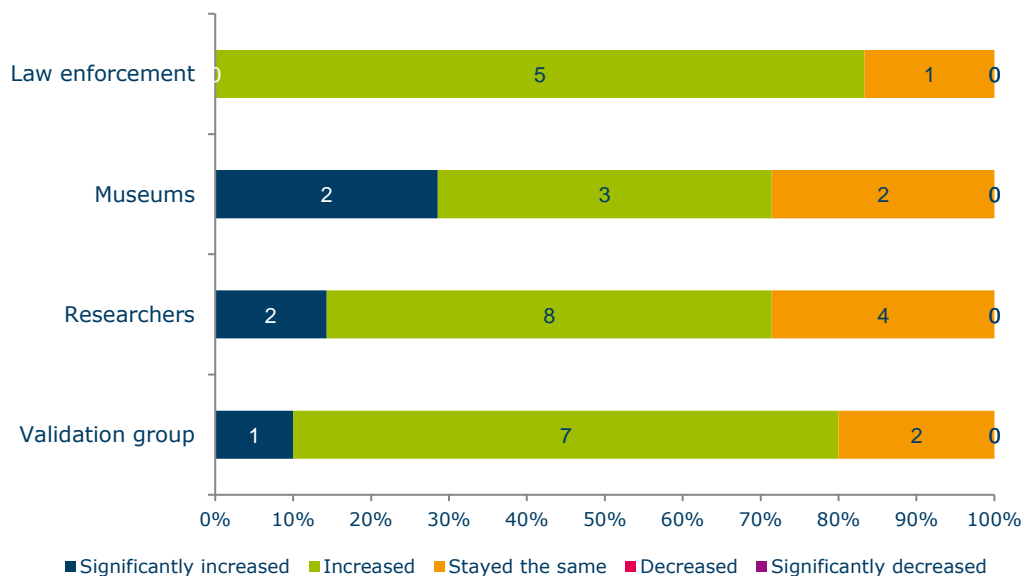
The figure below shows how stakeholders view the development of the types of illicitly traded goods. Treating this cautiously in light of the number of responses, all three stakeholder groups are more or less evenly split on whether the objects types have changed or rather that they have stayed the same since 2000. The validation group is in

stronger agreement; the general belief in this group is that the types of goods traded since 2000 has stayed the same.

Figure A1.6   **How has the types of illicitly traded goods developed since 2000? (N = 25, N= 11 for validation group)**
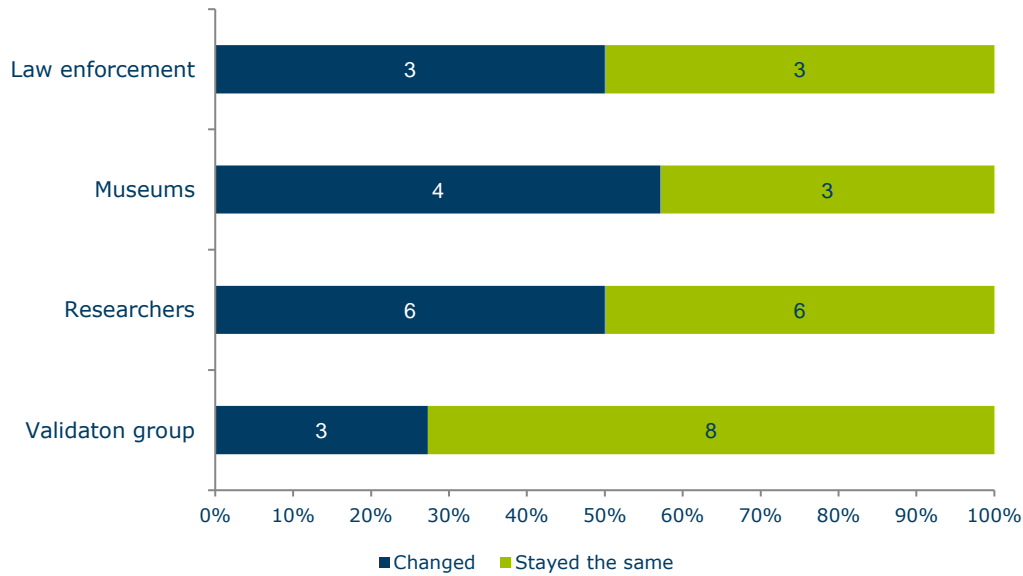

Finally, stakeholders were asked how the characteristics of transactions involving illicit cultural goods have developed since 2000. Although the response rate is limited, it is interesting that there is consensus among the four groups—with a slight majority among museum participants—that illicit trade in cultural goods has changed, characterised by more online and faster transactions. This finding may offer an explanation for the earlier observation that the total value of the illicit trade in cultural goods is thought to have increased: all else being equal, a higher volume of transactions would result in a higher value of the total market.

Figure A1.7   **Since 2000, the characteristics of transactions involving illicit cultural goods have changed/ stayed essentially the same. (N = 28, N = 11 for validation group)**
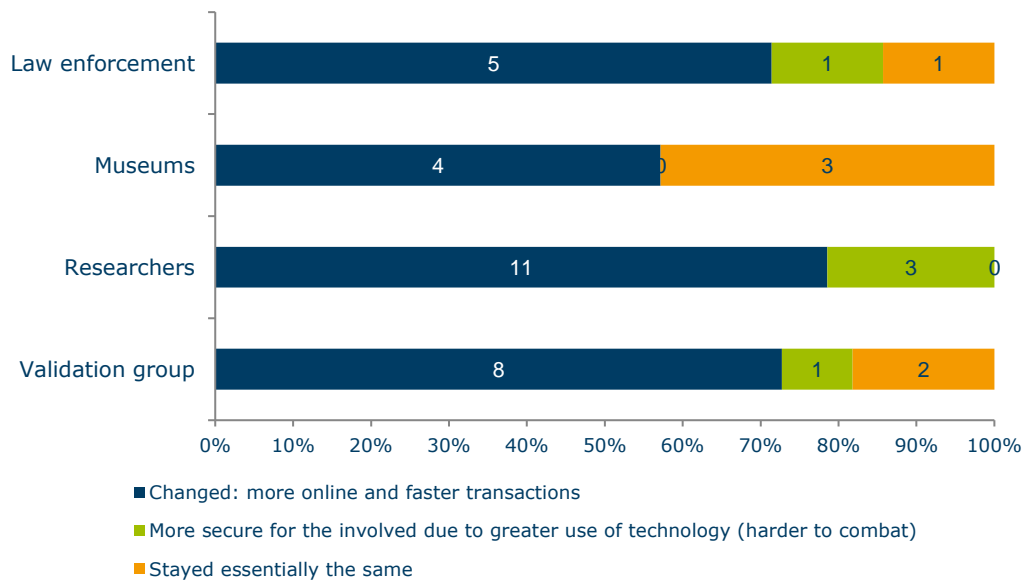
- ■ Changed: more online and faster transactions
- ■ More secure for the involved due to greater use of technology (harder to combat)
- ■ Stayed essentially the same

The figure below shows how stakeholders view the development of the volume of illicit trade in cultural goods since 2000. In line with observations on the value, there seems to be broad agreement between stakeholders, who indicate the volume of illicit trade has increased.

Figure A1.8   **How has the volume of illicit trade in cultural goods has developed since 2000? (N = 26, N = 11 for validation group)**

- ■ Significantly increased ■ Increased ■ Stayed the same ■ Decreased ■ Significantly decreased
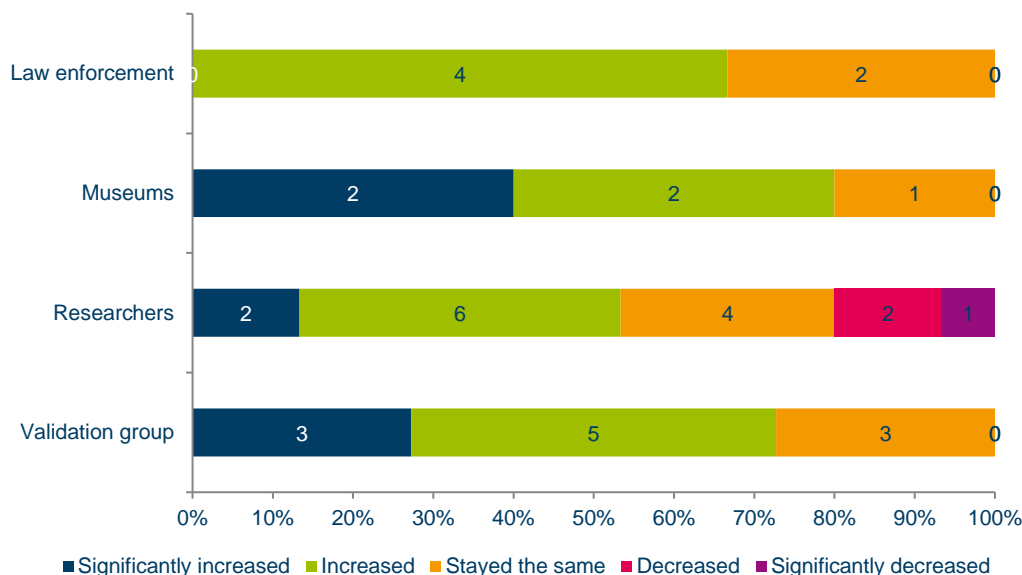
The responses of dealers are recorded in tables below due to their relatively low number. It is hard to draw conclusions from the inputs of traders, as they seem to be split between the answer categories and a 'don't know' response. Generally speaking, we can conclude

that they are more conservative regarding the size of the problem of illicit trade: they believe it has more or less stayed the same since 2000 and may have decreased in volume and value. Nevertheless, one should note that due to the low response rate of dealers and other industry representatives, the conclusions based on the survey results are not significant and cannot be generalised to the industry as whole.

Table A1.3   Development of nature and types of illicit trade in cultural goods since 2000, N = 4/5

	Changed	Stayed the same	I don't know
Development of **nature** of illicit trade in cultural goods since 2000 (origin)	1	2	2
Development **types** of illicitly traded goods since 2000	1	2	1

Table A1.4   Development of volume and value of illicit trade in cultural goods since 2000, N = 4

	Significantly increased	Increased	Remained roughly the same	Decreased	Significantly decreased	Don't know
Development of **volume**				1		3
Development of **value**			1	1		2

**Table A1.5   Development of characteristics of illicit trade in cultural goods since 2000, N = 4**

	Changed: more online and faster	More secure for involved due to technology	Stayed essentially the same	I don't know
Development **characteristics** of transactions involving illicit cultural goods		1	2	1

A3.3.3 Established criminal justice responses to the trade

Law Enforcement

In the figure below, it is indicated which criminal justice responses are considered to be very or extremely effective by law enforcement officials.

Figure A1.9   Effectiveness of established criminal justice responses according to LEA, N = 7
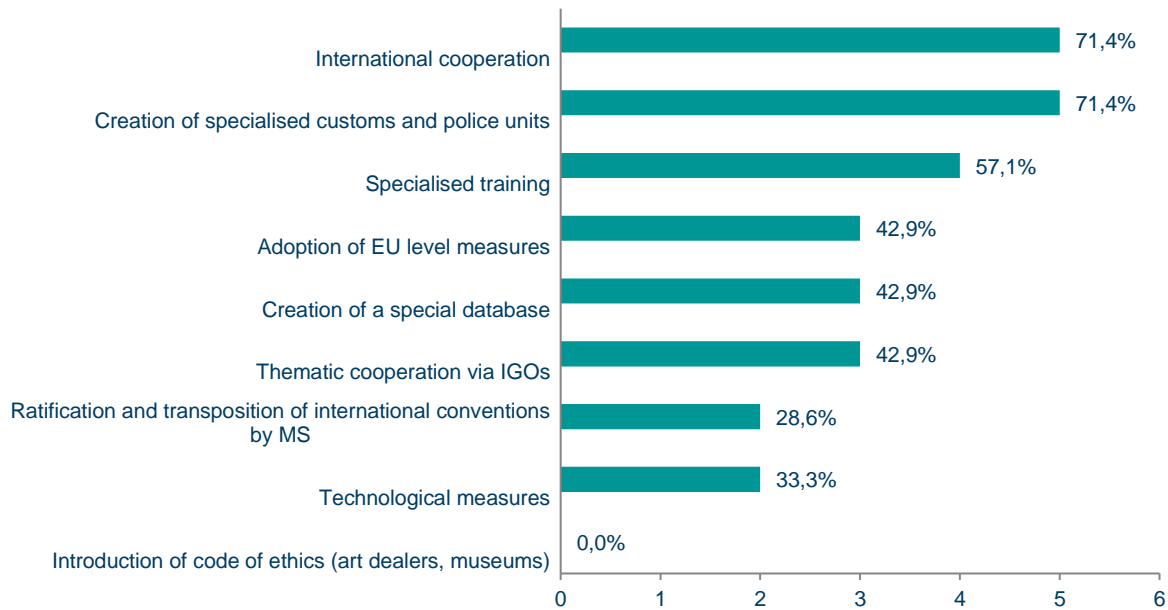
Museums

A total of 4 representatives of museums have answered questions regarding the established criminal justice responses in their respective country (low N). Their responses are presented in the table below. Generally, there is no clear-cut interpretation of the answers.

Table A1.6   Measures combating illicit trade in cultural goods, N = 4

	Extremely	Very	Moderately	Slightly	Not at all	Don't know
Technological measures (digital imprinting, marketing etc)		1	1	1	1	
Adoption of EU-level measures		2	1		1	
Creation of a special database		3		1		
Specialised training	1	1	1			1
Introduction of codes of ethics (by/for art dealers, museums)	2	1			1	

	Extremely	Very	Moderately	Slightly	Not at all	Don't know
Ratification and transposition of international conventions by Member States (UNESCO, UNIDROIT)	1	1	1	1		
Creation of specialised customs and police units by Member States	1	1	1		1	
Thematic cooperation via international organisations (Europol, Interpol, WCO)	1	1	1	1		
International cooperation	2	1	1			

Researchers

In the figure below, it is indicated which criminal justice responses are considered to be very or extremely effective by researchers.

Figure A1.10 **Effectiveness of established criminal justice responses according to researchers, N = 15**

Dealers

Four dealers answered the questions regarding the established criminal justice responses (low N). Their responses are presented in the table below. Generally speaking:
- Only a code of ethics is perceived to be effective;
- Many have indicated not knowing about effectiveness of most factors.

Table A1.7   Measures combating illicit trade in cultural goods, N = 4

	Extremely	Very	Moderately	Slightly	Not at all	Don't know
Technological measures (digital imprinting, marketing et cetera)			1			3
Adoption of EU-level measures				1	1	2
Creation of a special database			1	1	1	1
Specialised training,			1	1		2
Introduction of codes of ethics (by/for art dealers, museums)	1	2				1
Ratification and transposition of international conventions by Member States (UNESCO, UNIDROIT)			1	1		2
Creation of specialised customs and police units by Member States			1			3
Thematic cooperation via international organisations (Europol, Interpol, WCO)			1			3
International cooperation				2		2

Validation group

During the CULTNET meeting, 13 participants shared their views on the effectiveness of established criminal justice responses. This shows that the creation of specialised customs and police units, specialised training and international cooperation are understood to be very effective. The implementation of technological measures and the introduction of codes of ethics are perceived to be less effective.

Hereby, the answers by the validation group deviate from those provided by researchers. The latter indicated the introduction of a codes of ethics as very effective whereas they perceived the creation of specialised units less effective.

Figure A1.11   Effectiveness of established criminal justice responses according to researchers, N = 13[80]

International cooperation — 76,9%
Specialised training — 76,9%
Creation of specialised customs and police units — 69,2%
Thematic cooperation via IGOs — 53,8%
Creation of a special database — 53,8%
Adoption of EU level measures — 38,5%
Technological measures — 38,5%
Introduction of code of ethics (art dealers, museums) — 30,8%
Ratification and transposition of international conventions by MS — 30,8%

A3.3.4 Known obstacles to and shortcomings of criminal justice responses

These questions were only asked to law enforcement officials (during the online survey and as part of the validation survey). During the first round of the survey, five respondents replied to this question. In the validation phase, another eight respondents replied. The table below shows how frequent a specific resource was mentioned.

Table A1.8   What does your organisation need for carrying out more effective action against illicit trade? (N = 5, N = 8)

Needs	Respondents	Validation group
Human Resources	4	8
Financial resources	3	6
Better equipment	3	2
Training	2	3
Expert advice	1	1
Collaboration with national counterparts and institutions	1	1
Cooperation with foreign counterparts and institutions	1	1
More competences (legislation)	1	3
Other	1	1

One of the respondents of the validation group underscored that a better understanding of the problem is required.

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[80] N = 12 for 'creation of a specialised database' and 'specialised training'

These respondents were also asked what measures could be taken to reduce illicit trade. Both law enforcement representatives and the validation group indicated that stricter regulation would be beneficial. At the same time, both groups stressed that existing instruments should be used more effectively. Implementation of (available or new) technologies could also help, according to law enforcement representatives. The members of the validation group indicated that the ratification of the 2017 Convention would be useful.

Figure A1.12   **What new measures could be taken at national level to reduce illicit trade, according to LE (N = 7)**
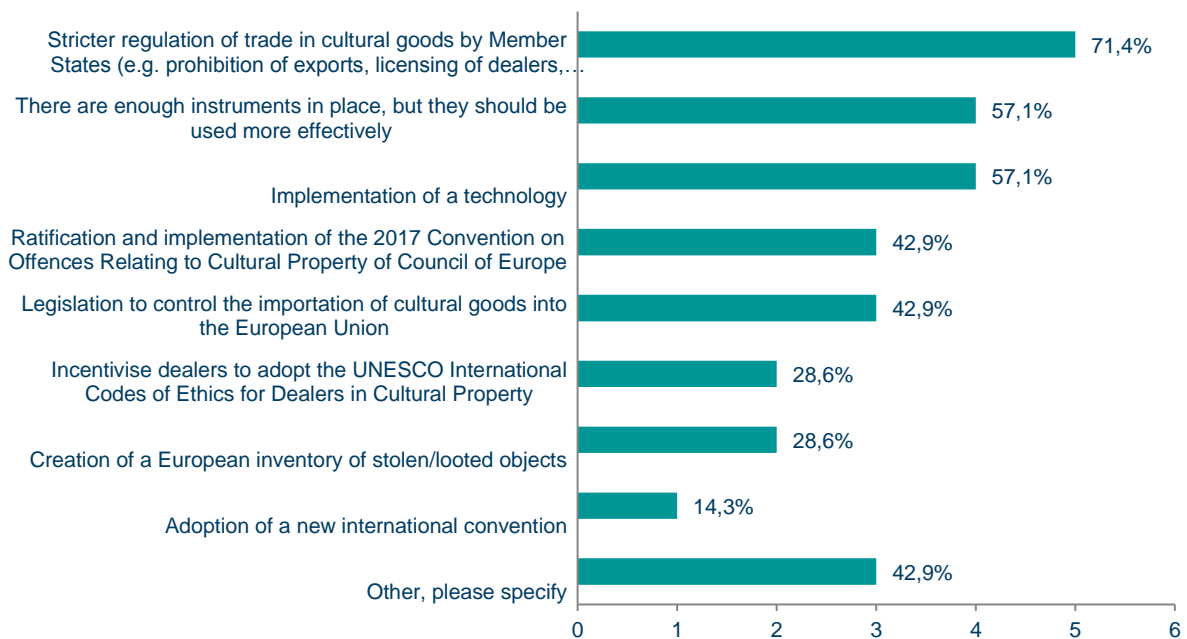
Figure A1.13   What new measures could be taken at national level to reduce illicit trade, according to validation group (N = 7)
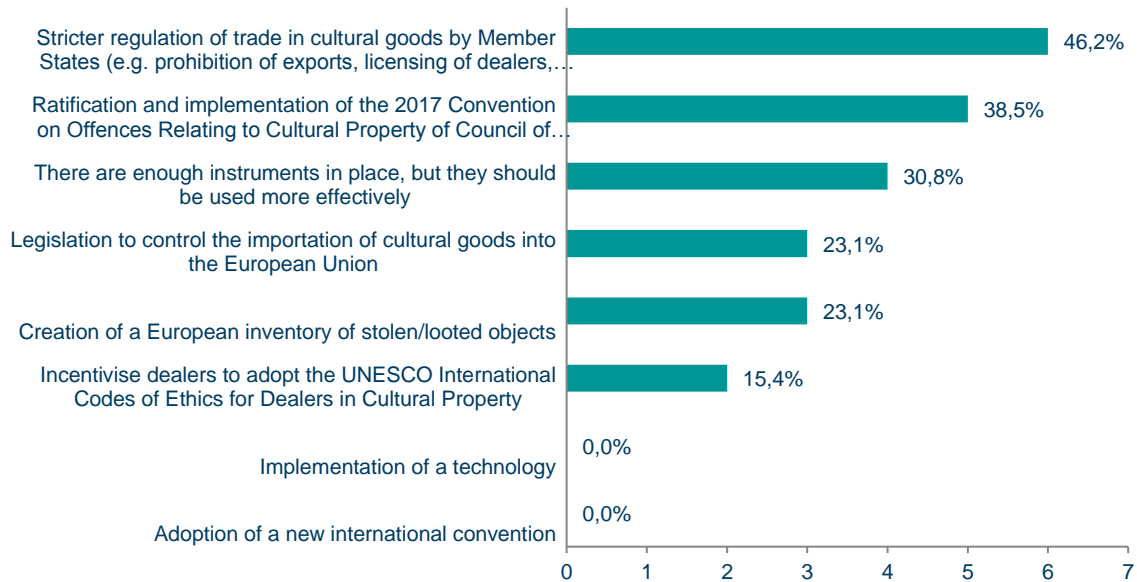
In addition, LEA representatives and the validation group were asked who should be the prime target audience(s) for an awareness raising campaign about illicit trade in cultural goods. Law enforcement representatives indicated that the general public in the EU, collectors and tourists were perceived to be the most suitable target audience (see figure below). The validation group indicated that law enforcement in the EU and in third countries form the prime target audience.

Figure A1.14   Who should be the prime target audience(s) for an awareness raising campaign about illicit trade in cultural goods, according to LEA (N = 7)
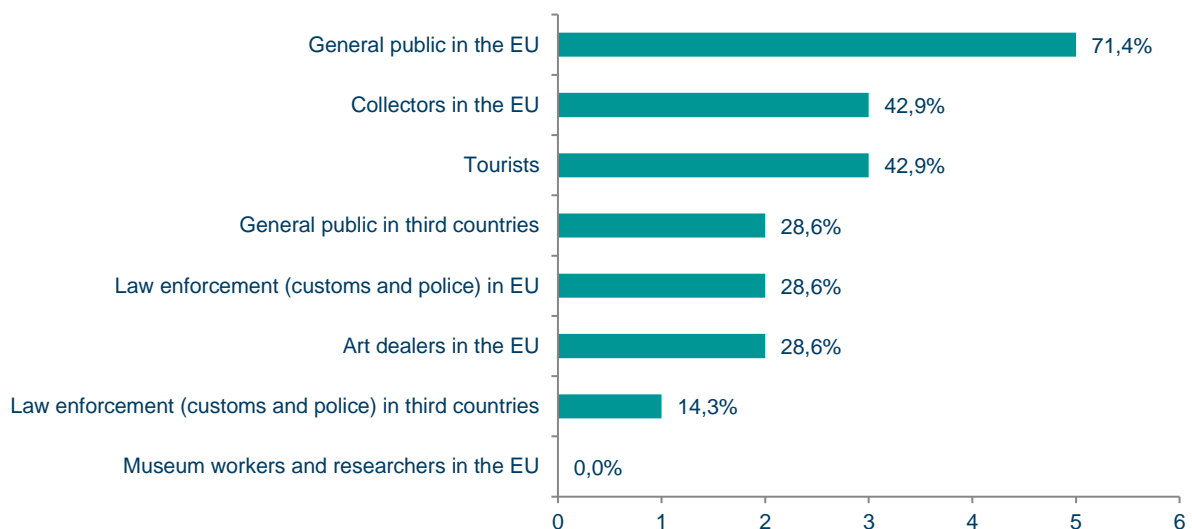
Figure A1.15 **Who should be the prime target audience(s) for an awareness raising campaign about illicit trade in cultural goods, according to the validation group (N = 8)**
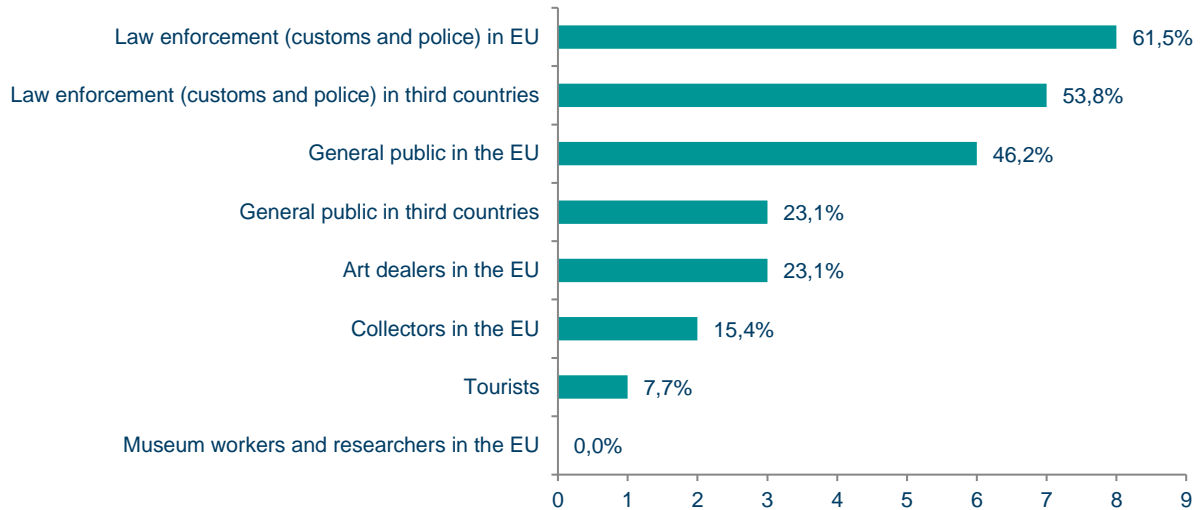
Finally, law enforcement authorities and the validation group were asked what actions can be taken to create (more reliable) statistics on the illicit trade in cultural goods. As shown below, LEAs indicated that common recording of statistics, sharing of data, common standards of measurement and compulsory registering of all goods are possibly effective actions. The validation group confirmed these ideas.

Figure A1.16 **What actions can be taken to create (more reliable) statistics on the illicit trade in cultural goods, according to LEA (N = 7)**

Figure A1.17 **What actions can be taken to create (more reliable) statistics on the illicit trade in cultural goods, according to validation group (N = 7**

A3.4 Responses by role in illicit trade chain

This section provides an overview of the survey responses by stakeholder role in the illicit trade chain.

A3.4.1 Criminal organisation and operation of the illicit trade

Source

In the figure below, the different factors are shown which may contribute to facilitating illicit trade according to source countries. For each specific factor the figure indicates how many respondents have indicated it 'very much' or 'extremely' facilitates illicit trade.
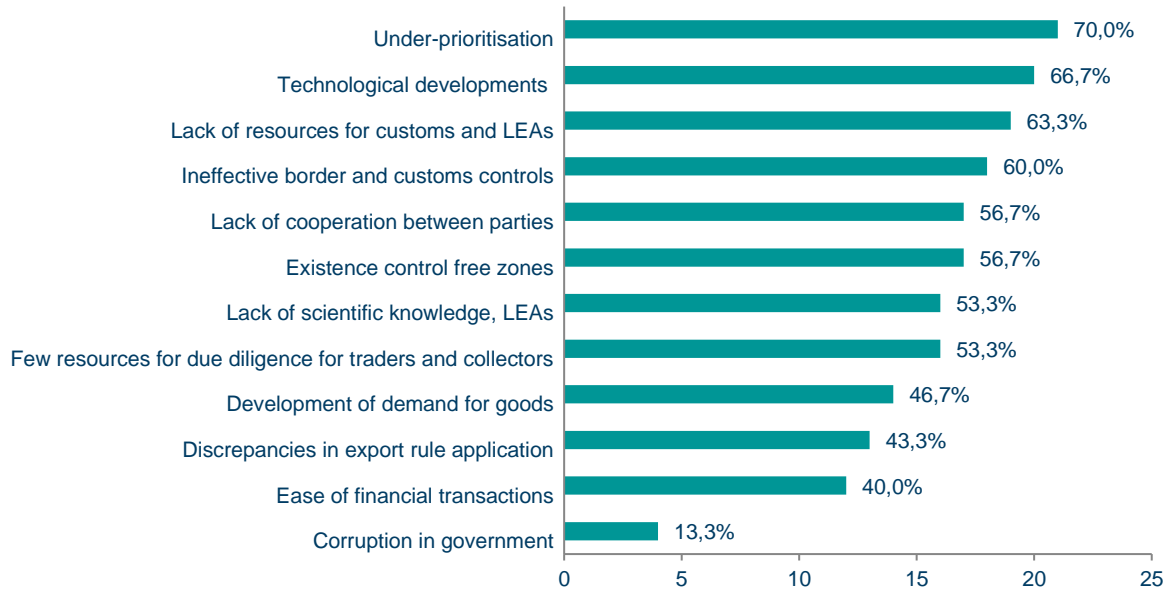
Figure A1.18   Factors facilitating illicit trade according to source countries, N = 14
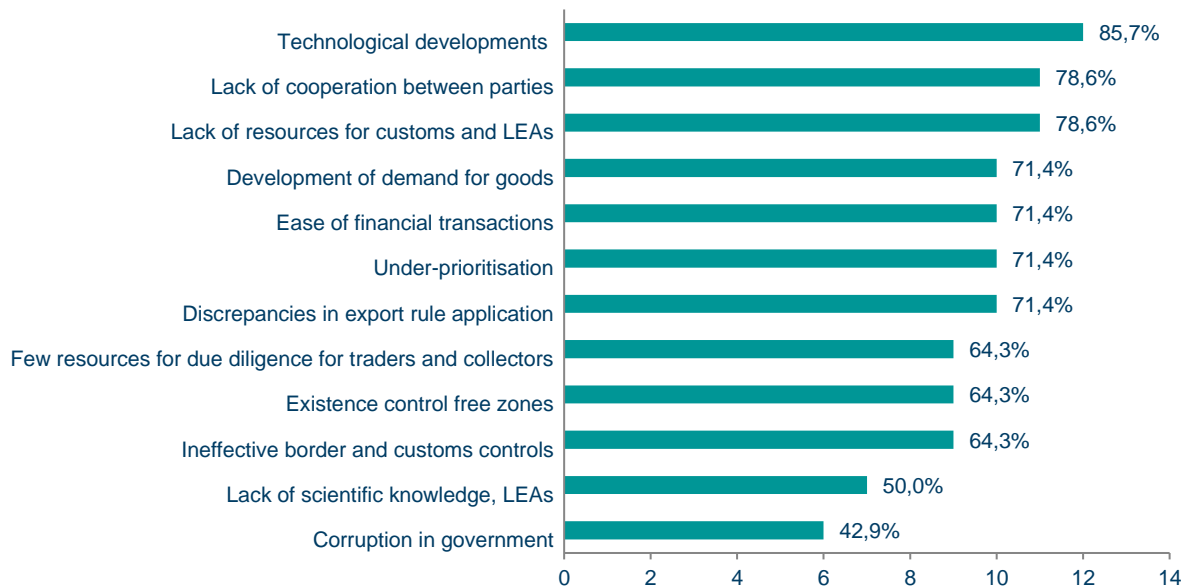
Transit

In the figure below, the different factors are shown which may contribute to facilitating illicit trade according to transit countries. For each specific factor the figure indicates how many respondents have indicated it 'very much' or 'extremely' facilitates illicit trade.

Figure A1.19   Factors facilitating illicit trade according to transit countries, N = 38
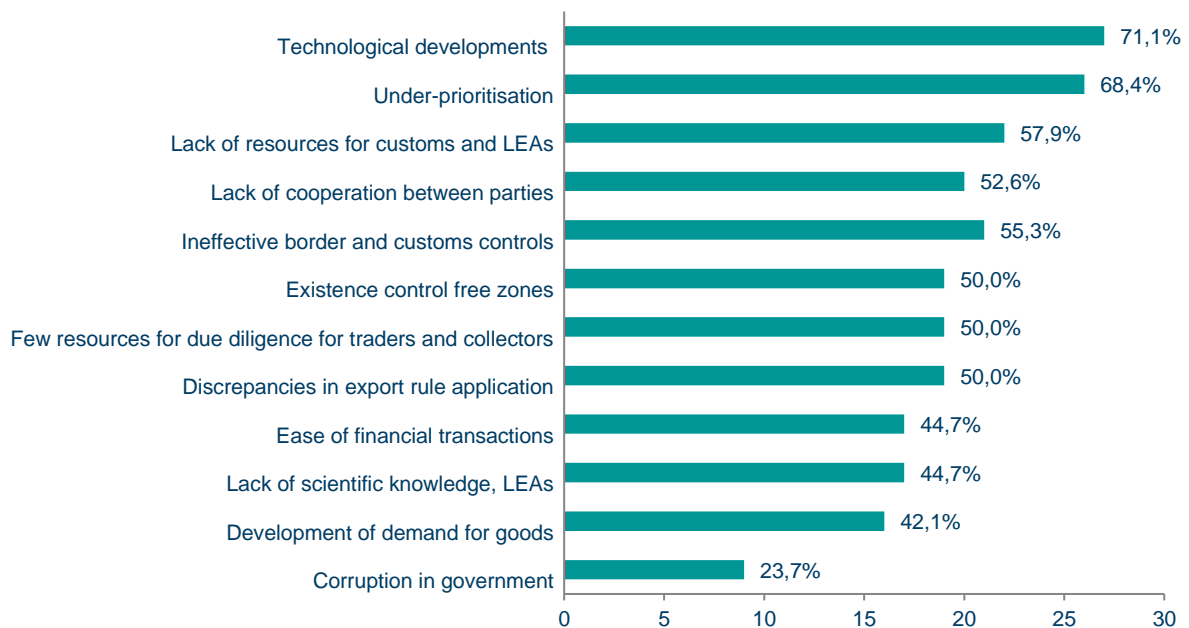
Destination

In the figure below, the different factors are shown which may contribute to facilitating illicit trade according to destination countries. For each specific factor the figure indicates how many respondents have indicated it 'very much' or 'extremely' facilitates illicit trade.

Figure A1.20   Factors facilitating illicit trade according to destination countries, N = 30

Factor	Percentage
Under-prioritisation	70,0%
Technological developments	66,7%
Lack of resources for customs and LEAs	63,3%
Ineffective border and customs controls	60,0%
Lack of cooperation between parties	56,7%
Existence control free zones	56,7%
Lack of scientific knowledge, LEAs	53,3%
Few resources for due diligence for traders and collectors	53,3%
Development of demand for goods	46,7%
Discrepancies in export rule application	43,3%
Ease of financial transactions	40,0%
Corruption in government	13,3%

A3.4.2 Material parameters of the trade including volume, value, typology

The Figure below shows how stakeholders view the development of the nature of illicit trade in cultural goods since 2000.

Figure A1.21   How has the nature of illicit trade in cultural goods has developed since 2000?

|	Changed	Stayed the same
Source	7	5
Transit	19	14
Destination	16	8

■ Changed ■ Stayed the same
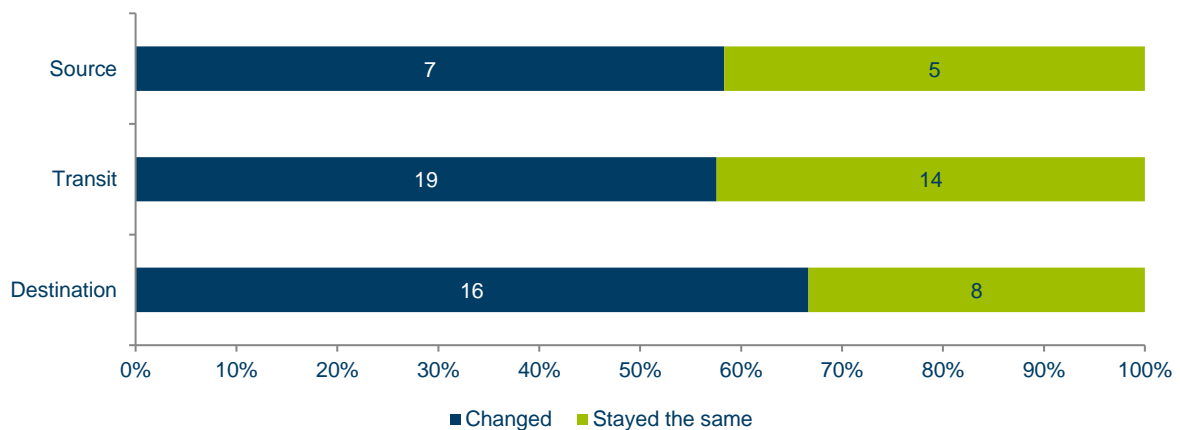
In the same vein, the figure below shows how stakeholders view the development of the volume of illicit trade in cultural goods since 2000.

Figure A1.22   How has the volume of illicit trade in cultural goods has developed since 2000?
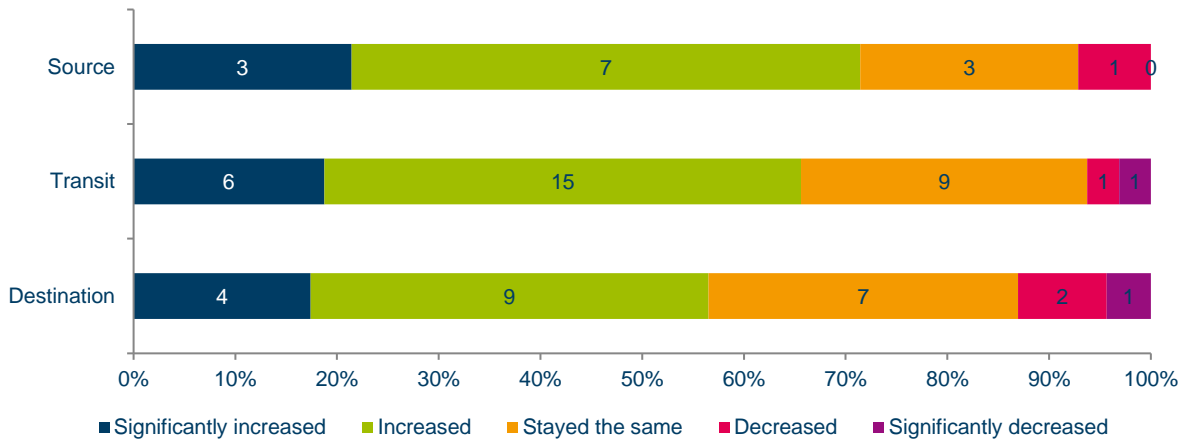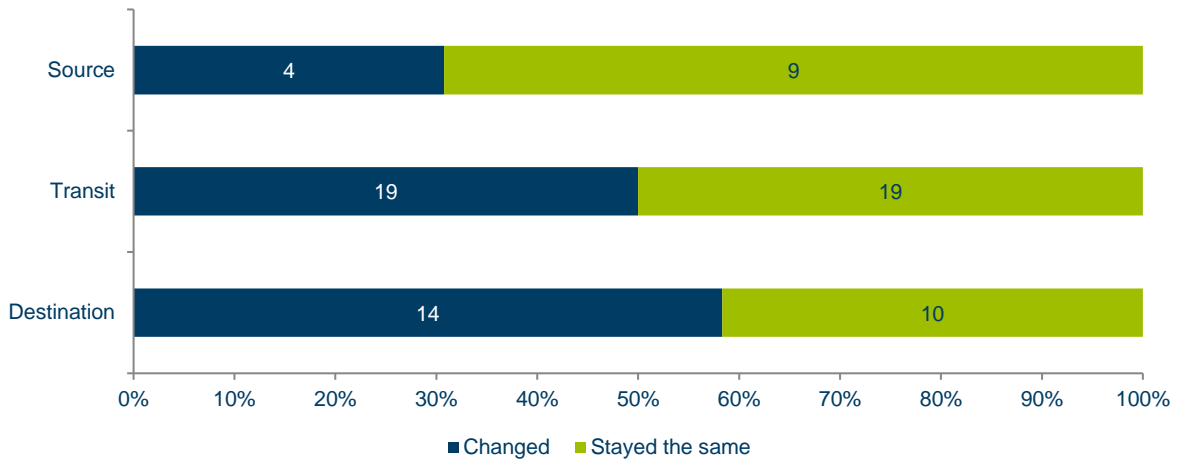

The figure below shows the same for the value of illicit trade in cultural goods.

Figure A1.23   How has the value of illicit trade in cultural goods has developed since 2000?
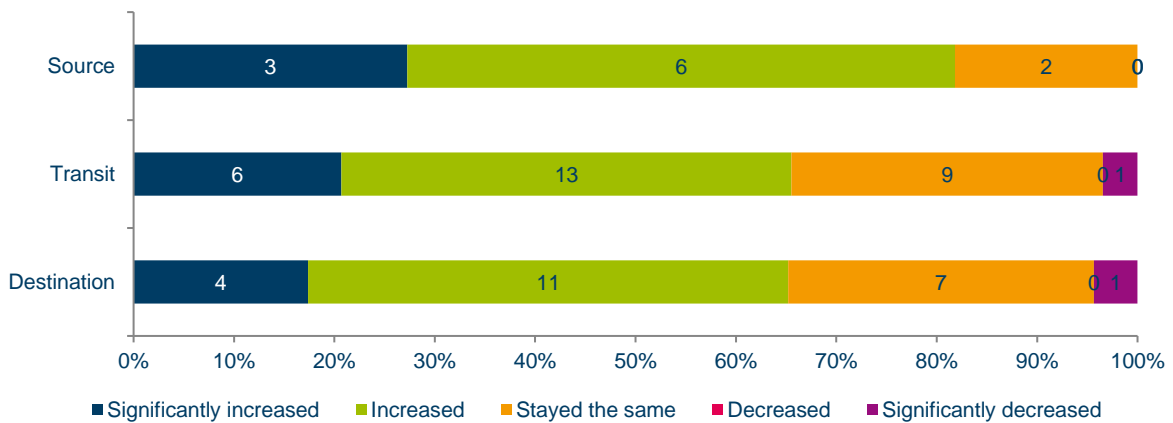

The figure below shows how stakeholders view the development of the types of illicitly traded goods.

Figure A1.24   How has the types of illicitly traded goods developed since 2000?

Finally, stakeholders were asked how the characteristics of transactions involving illicit cultural goods have developed since 2000.

**Figure A1.25   Since 2000, the characteristics of transactions involving illicit cultural goods have...**
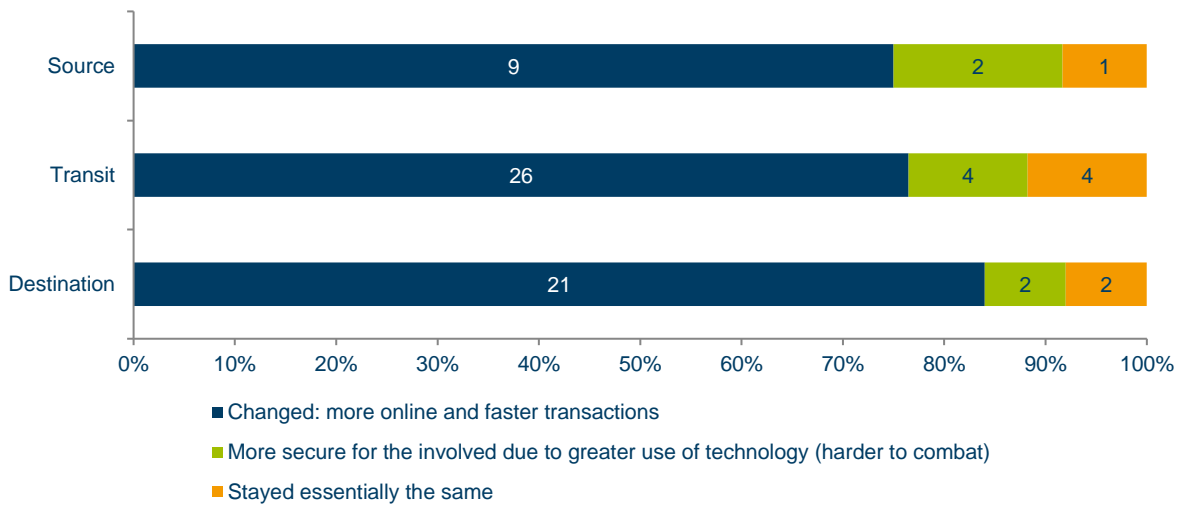
A3.4.3 Established criminal justice responses to the trade

Source

In the figure below, it is indicated which criminal justice responses are considered to be very or extremely effective by source countries.
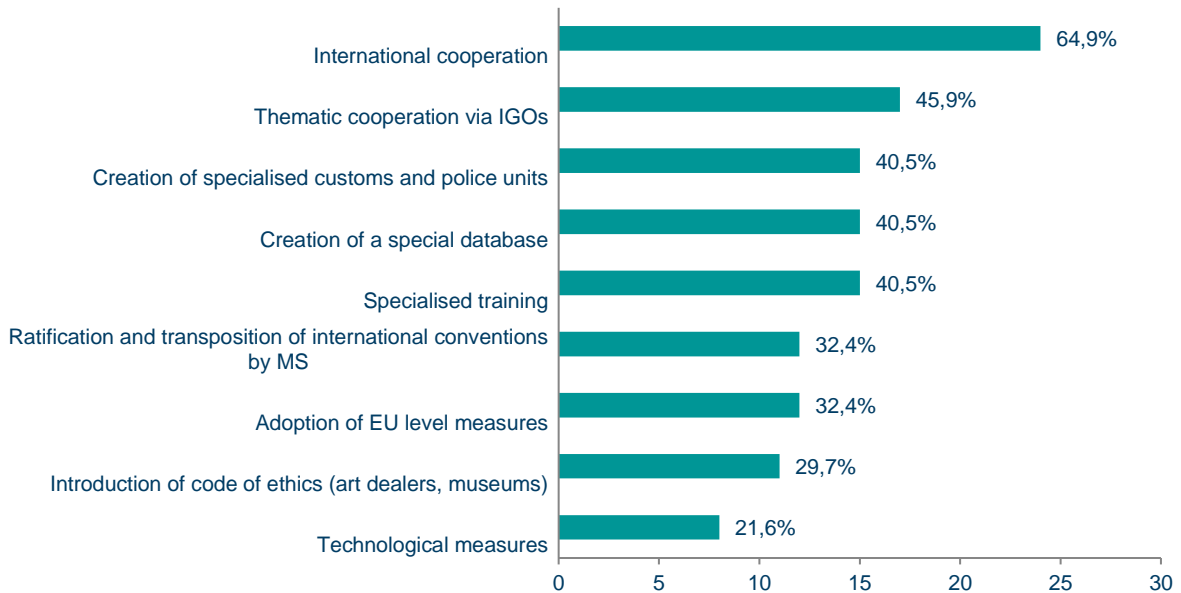
Figure A1.26 **Effectiveness of established criminal justice responses according to source countries, N = 14**
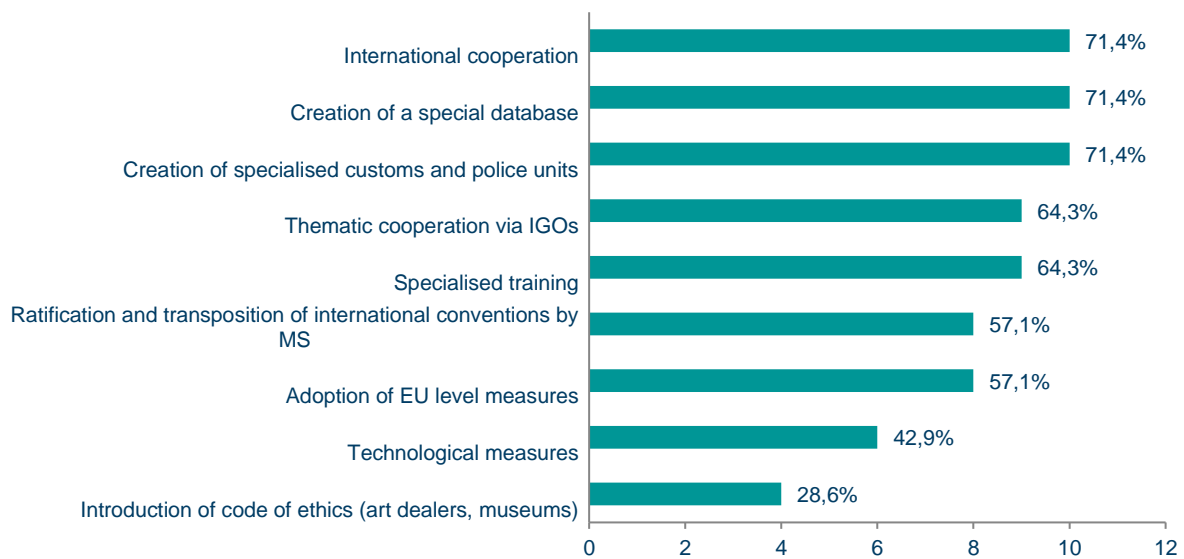
Transit

In the figure below, it is indicated which criminal justice responses are considered to be very or extremely effective by transit countries.

Figure A1.27   Effectiveness of established criminal justice responses according to source countries, N = 14

Destination

In the figure below, it is indicated which criminal justice responses are considered to be very or extremely effective by destination countries.

Figure A1.28   Effectiveness of established criminal justice responses according to source countries, N = 28/29
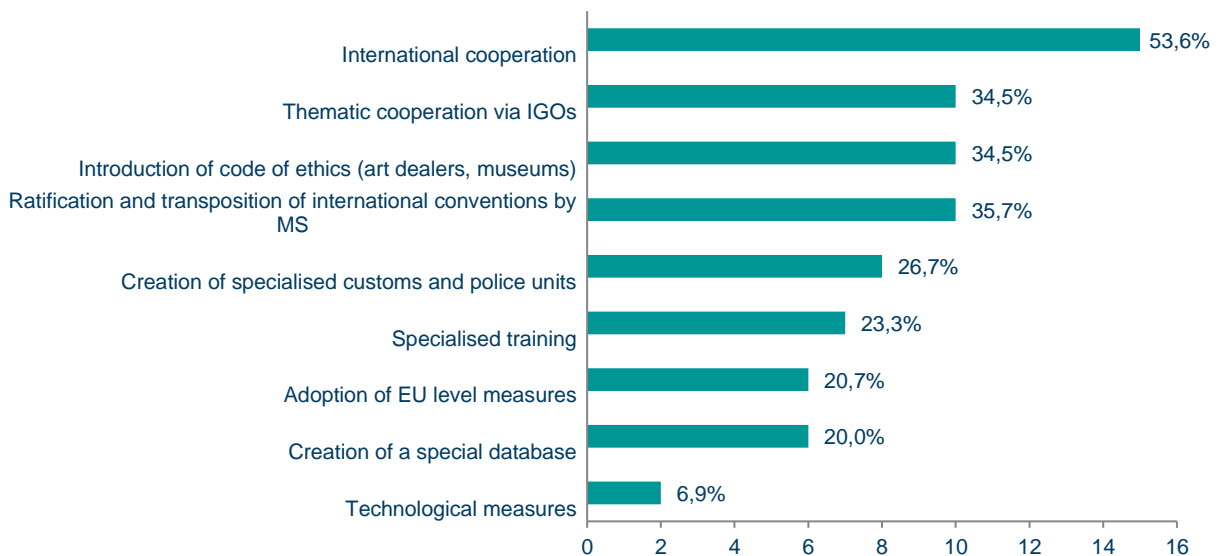
A3.4.4 Known obstacles to and shortcomings of criminal justice responses

Source

These questions were only asked to law enforcement officials. Three respondents from source countries replied to this question, the table below shows how frequent a specific resource was mentioned.

Table A1.9   **What does your organisation need for carrying out more effective action against illicit trade? (N = 3)**

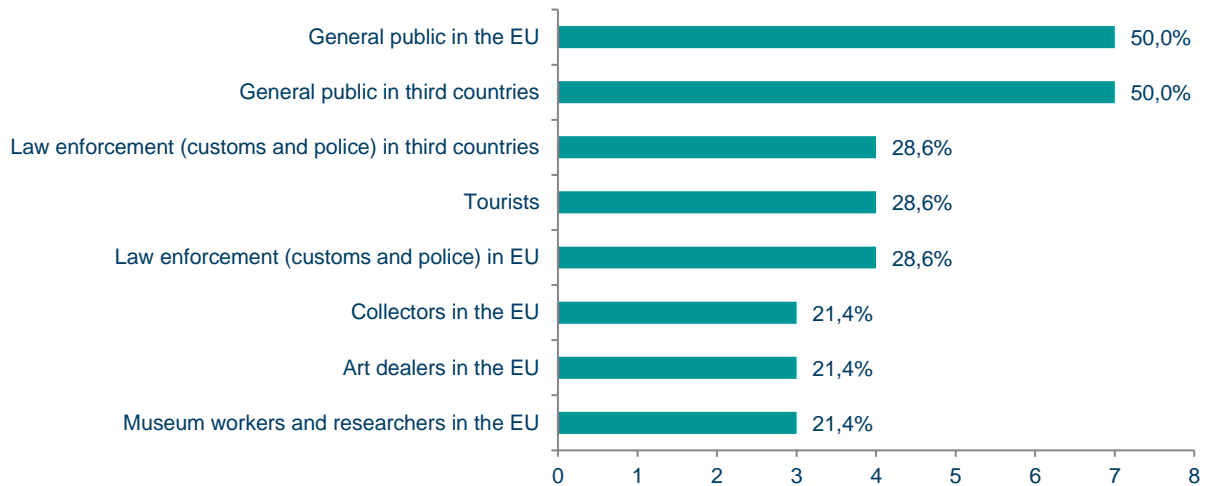|	Respondents
Human Resources	3
Financial resources	2
Better equipment	3
Training	2
Expert advice	1
Collaboration with national counterparts and institutions	1
Cooperation with foreign counterparts and institutions	1
More competences (legislation)	
Other	

These respondents were also asked what measures could be taken to reduce illicit trade. Most indicate stricter regulation, while at the same time it is stressed existing instruments should be used more effectively. New technologies could also help (see figure).

Figure A1.29   **What new measures could be taken at national level to reduce illicit trade, N = 14**
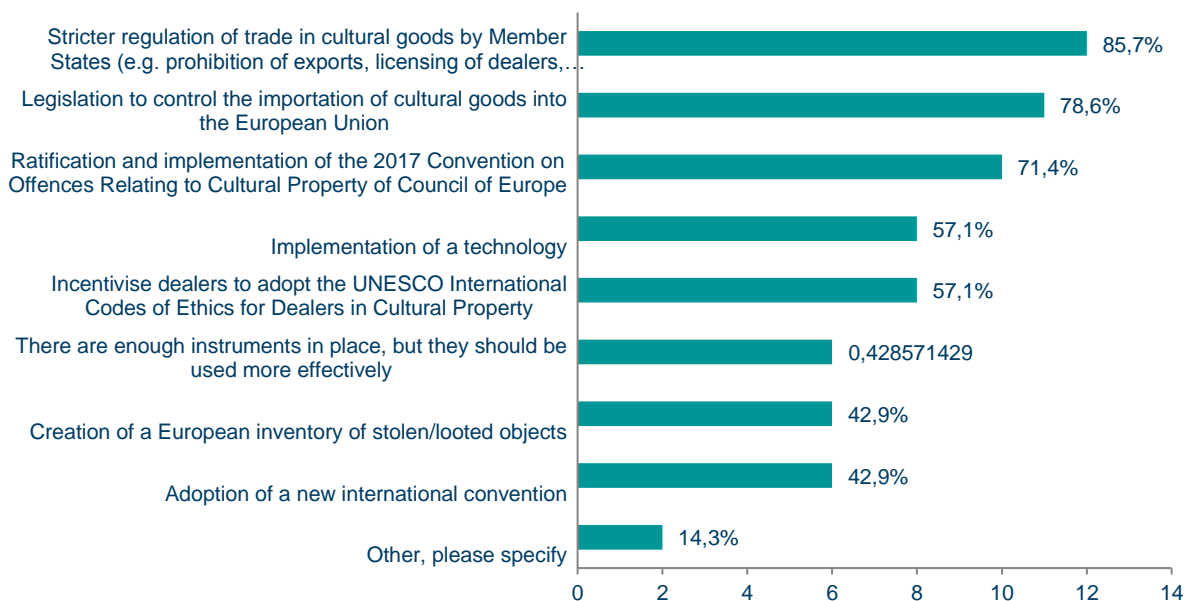
In addition, LEA representatives were asked who should be the prime target audience(s) for an awareness raising campaign about illicit trade in cultural goods, with up to 3 answers possible. The general public in the EU, collectors and tourists were perceived to be the most suitable target audience (see figure below).

Figure A1.30   Who should be the prime target audience(s) for an awareness raising campaign about illicit trade in cultural goods, N = 14

| Audience	Value
General public in the EU	50,0%
General public in third countries	50,0%
Law enforcement (customs and police) in third countries	28,6%
Tourists	28,6%
Law enforcement (customs and police) in EU	28,6%
Collectors in the EU	21,4%
Art dealers in the EU	21,4%
Museum workers and researchers in the EU	21,4%

Finally, LEAs from source countries were then asked what actions can be taken to create (more reliable) statistics on the illicit trade in cultural goods. As shown below, common recording of statistics, sharing of data, common standards of measurement and compulsory registering of all goods are most often seen as possibly effective actions.

Figure A1.31   What actions can be taken to create (more reliable) statistics on the illicit trade in cultural goods, N = 14

Action	Value
Sharing of data between law enforcement authorities of different countries	71,4%
Compulsory registering and reporting of all traded cultural goods	50,0%
Harmonised system for describing cultural goods	42,9%
Common standards of measurement (of seizures, cases, objects) among Member States	42,9%
Compulsory registering and reporting to a central database of detected illicitly traded cultural goods	28,6%
Common standards of recording of statistics	28,6%

The museums, dealers and art collectors were asked what they need to be able to carry out an effective provenance control on cultural goods that are acquired or received on loan. The figure below shows the responses of these groups who were located in source countries (N = 2).

Figure A1.32 **What do you need to be able to carry out effective provenance control on the cultural goods that are acquired (before acquisition) or received on loan? N = 2**
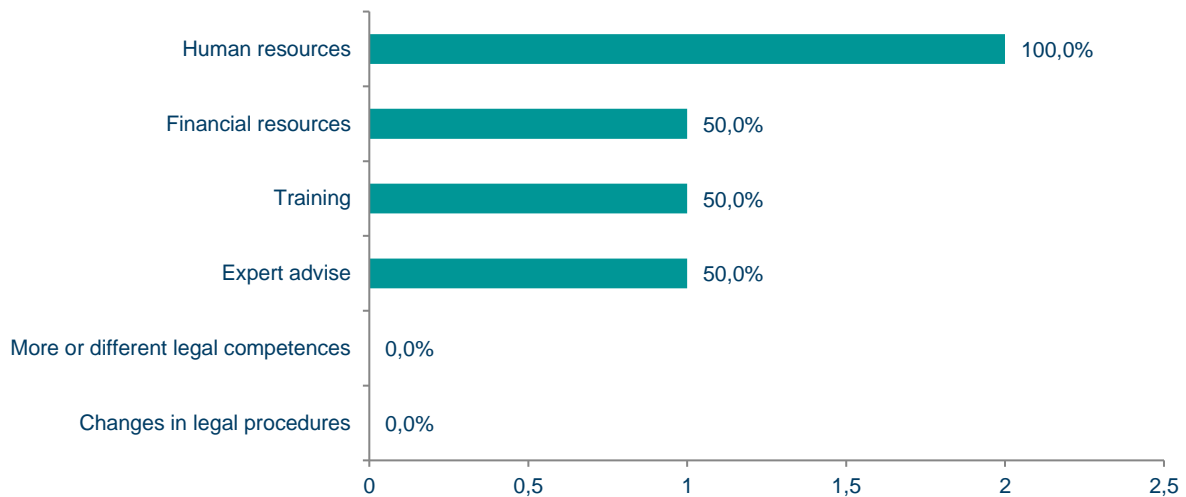

Transit

These questions were only asked to law enforcement officials. Three respondents from transit countries replied to this question, the table below shows how frequent a specific resource was mentioned.

Table A1.10 **What does your organisation need for carrying out more effective action against illicit trade? (N = 3)**

|	Respondents
Human Resources	2
Financial resources	1
Better equipment	2
Training	1
Expert advice	
Collaboration with national counterparts and institutions	1
Cooperation with foreign counterparts and institutions	1
More competences (legislation)	1
Other	

These respondents were also asked what measures could be taken to reduce illicit trade. Most indicate stricter regulation, while at the same time it is stressed existing instruments should be used more effectively. New technologies could also help (see figure).

Figure A1.33   What new measures could be taken at national level to reduce illicit trade, N = 36
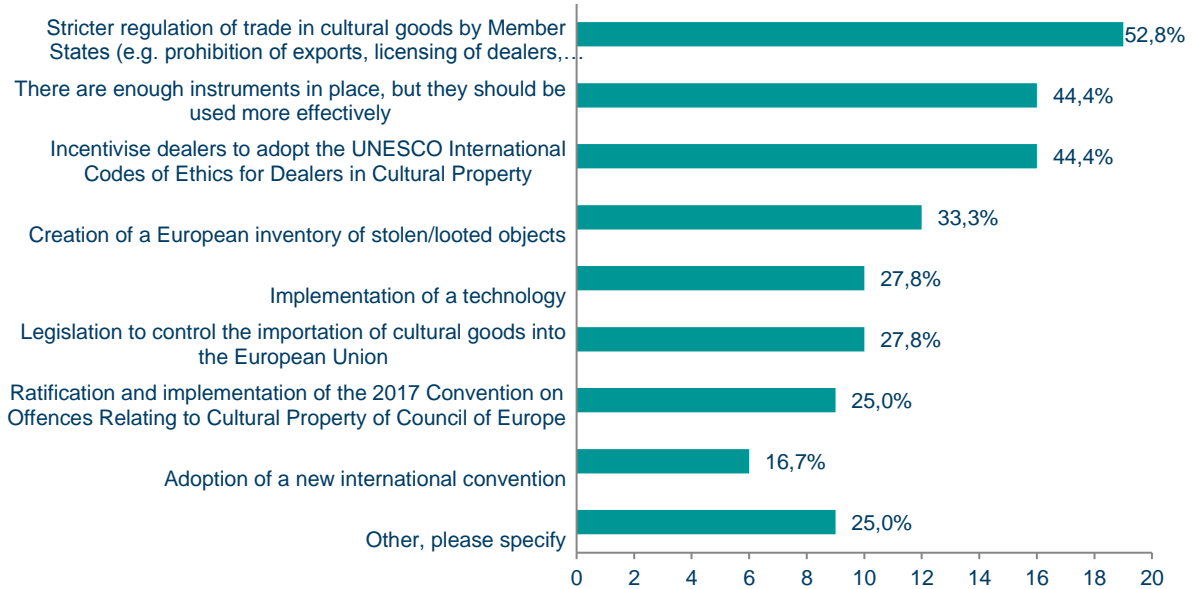
In addition, LEA representatives were asked who should be the prime target audience(s) for an awareness raising campaign about illicit trade in cultural goods, with up to 3 answers possible. The general public in the EU, collectors and tourists were perceived to be the most suitable target audience (see figure below).

Figure A1.34   Who should be the prime target audience(s) for an awareness raising campaign about illicit trade in cultural goods, N = 29
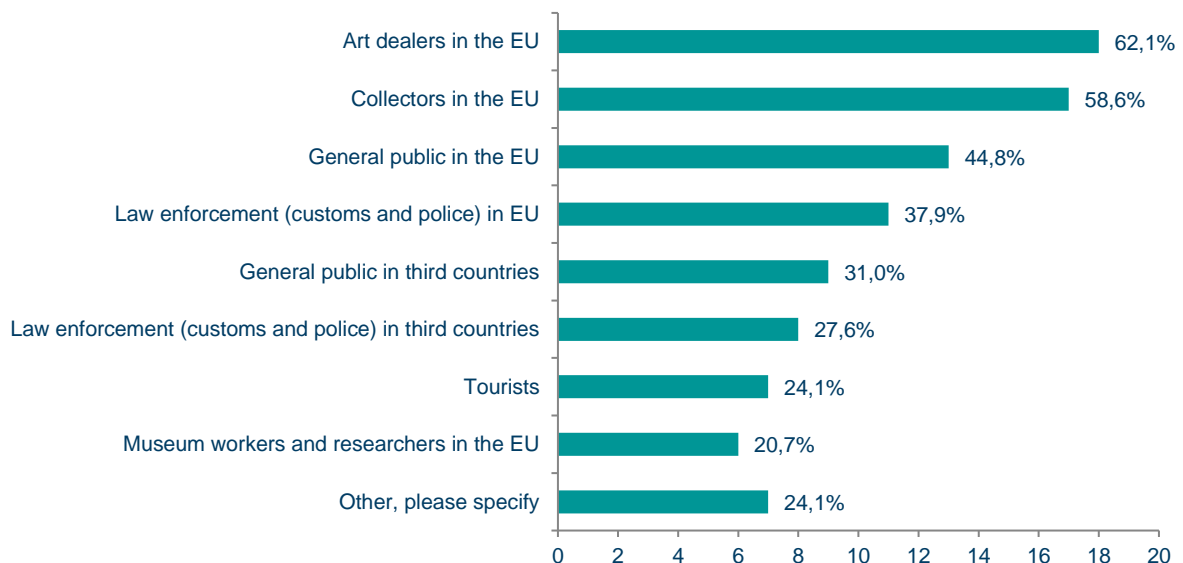
Finally, LEAs from transit countries were then asked what actions can be taken to create (more reliable) statistics on the illicit trade in cultural goods. As shown below, common recording of statistics, sharing of data, common standards of measurement and compulsory registering of all goods are most often seen as possibly effective actions.

Figure A1.35 **What actions can be taken to create (more reliable) statistics on the illicit trade in cultural goods, N = 14**

The museums, dealers and art collectors were asked what they need to be able to carry out an effective provenance control on cultural goods that are acquired or received on loan. The figure below shows the responses of these groups who were located in transit countries (N = 5).

Figure A1.36 **What do you need to be able to carry out effective provenance control on the cultural goods that are acquired (before acquisition) or received on loan? N = 5**
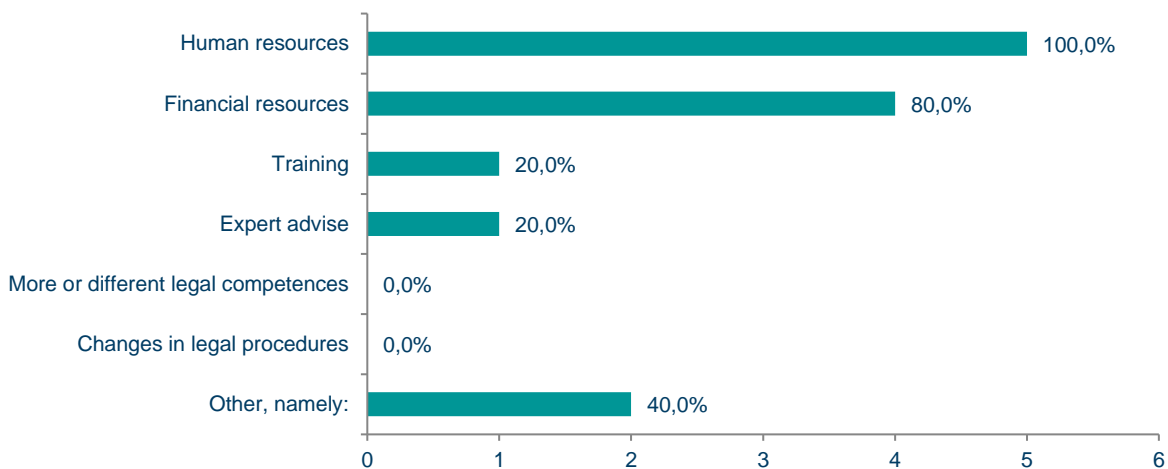
Destination

These questions were only asked to law enforcement officials. Two respondents from destination countries replied to this question, so the findings should be treated with caution. The table below shows how frequent a specific resource was mentioned.

Table A1.11   What does your organisation need for carrying out more effective action against illicit trade? (N = 2)

|	Respondents
Human Resources	1
Financial resources	1
Better equipment	
Training	
Expert advice	
Collaboration with national counterparts and institutions	
Cooperation with foreign counterparts and institutions	
More competences (legislation)	1
Other	1

These respondents were also asked what measures could be taken to reduce illicit trade. Most indicate stricter regulation, while at the same time it is stressed existing instruments should be used more effectively. New technologies could also help (see figure).

Figure A1.37   What new measures could be taken at national level to reduce illicit trade, N = 28
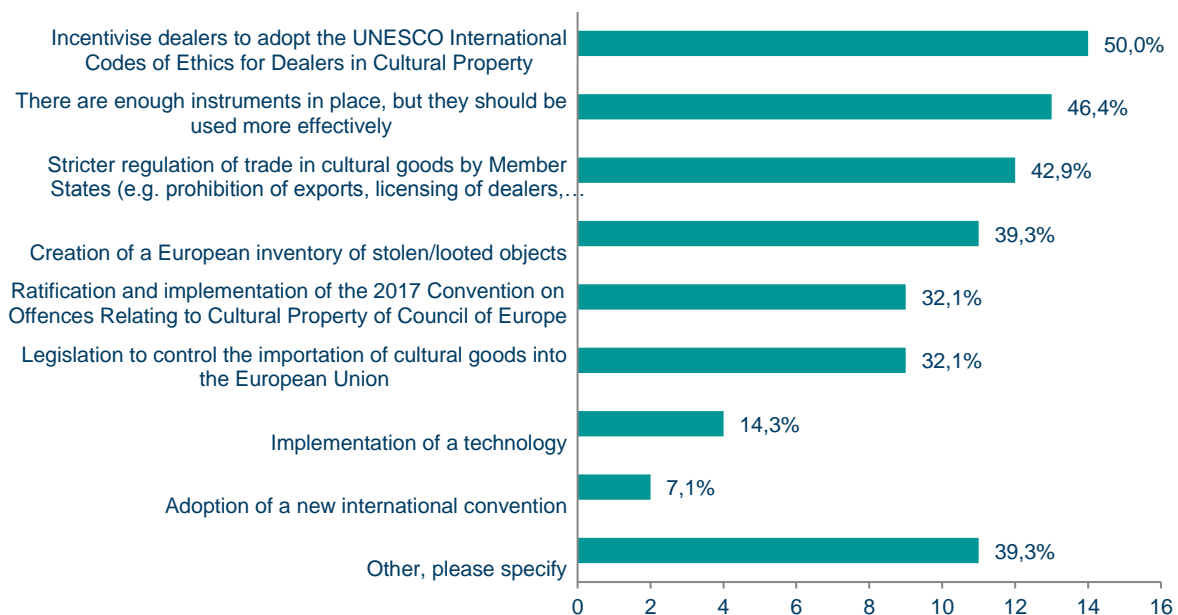
In addition, LEA representatives were asked who should be the prime target audience(s) for an awareness raising campaign about illicit trade in cultural goods, with up to 3 answers possible. The general public in the EU, collectors and tourists were perceived to be the most suitable target audience (see figure below).

Figure A1.38   Who should be the prime target audience(s) for an awareness raising campaign about illicit trade in cultural goods, N = 28
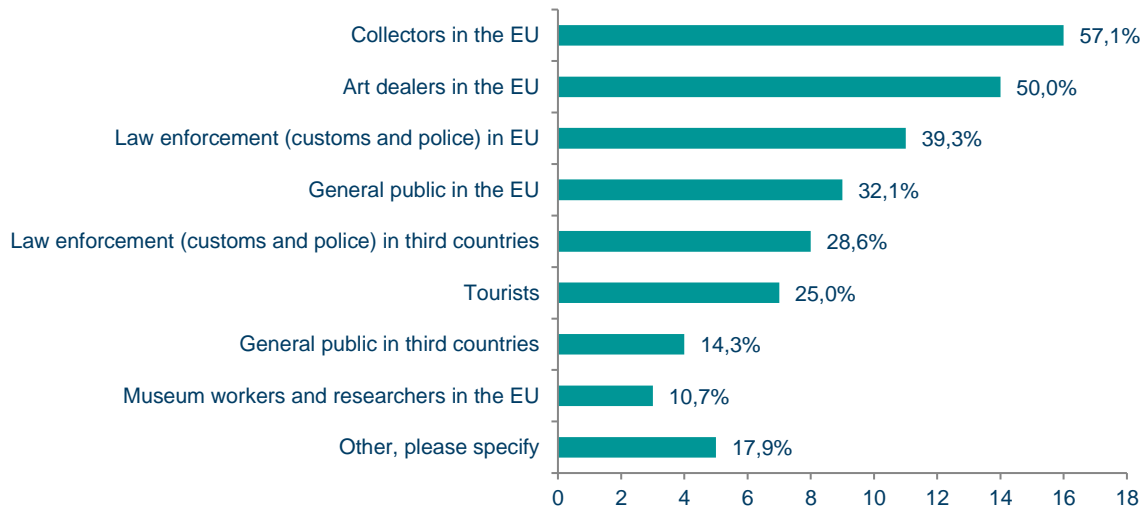

Finally, LEAs from destination countries were then asked what actions can be taken to create (more reliable) statistics on the illicit trade in cultural goods. As shown below, common recording of statistics, sharing of data, common standards of measurement and compulsory registering of all goods are most often seen as possibly effective actions.

Figure A1.39   What actions can be taken to create (more reliable) statistics on the illicit trade in cultural goods, N = 28
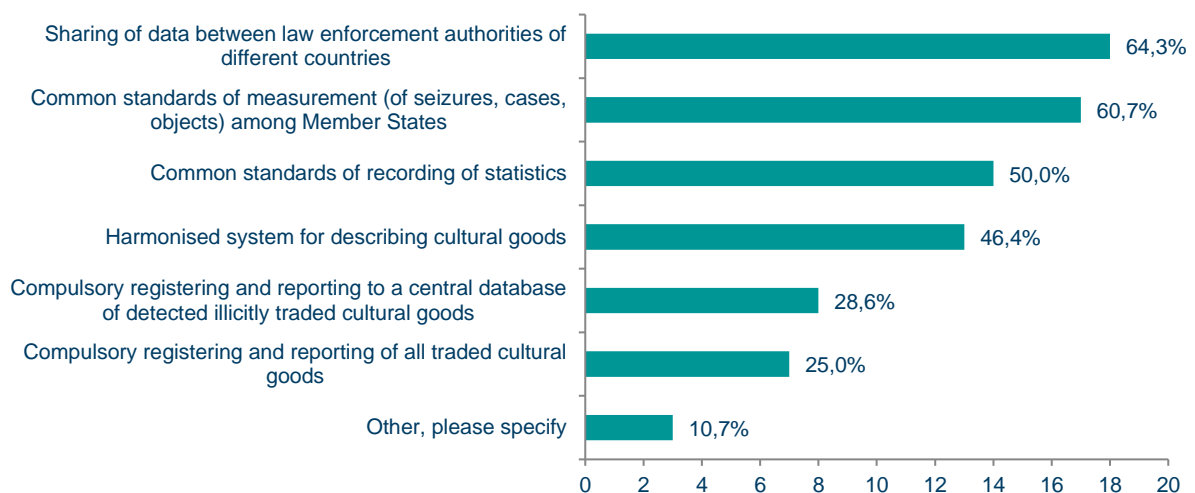
The museums, dealers and art collectors were asked what they need to be able to carry out an effective provenance control on cultural goods that are acquired or received on loan. The figure below shows the responses of these groups who were located in destination countries (N = 5).

Figure A1.40   **What do you need to be able to carry out effective provenance control on the cultural goods that are acquired (before acquisition) or received on loan? N = 5**
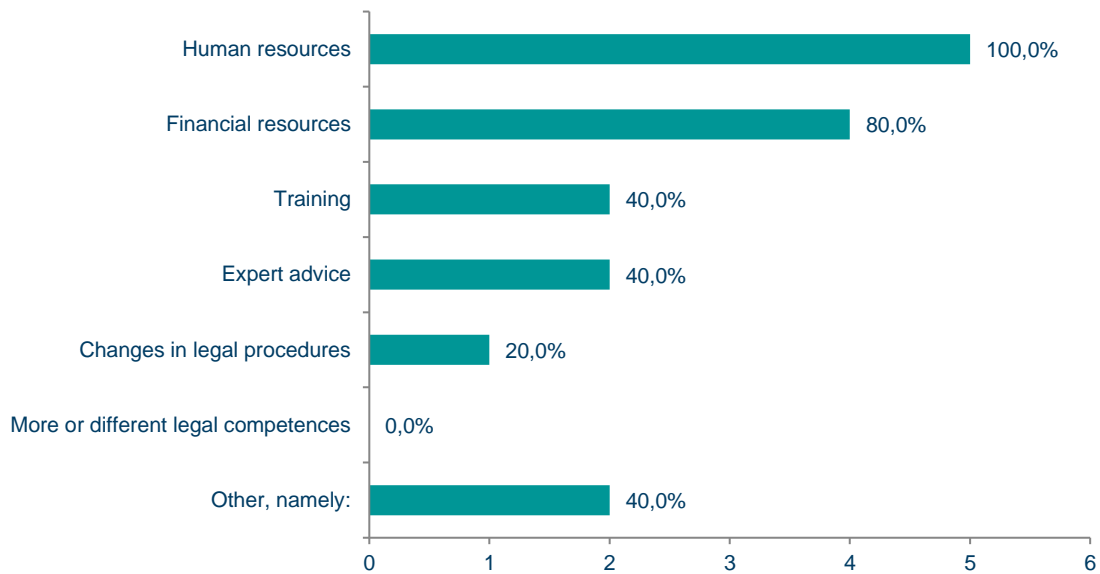
Annex 4 Overview of analysed technologies

A4.1 Blockchain technology

Description

The term blockchain technology encompasses a host of technologies, which are based on the blockchain, a verifiable and distributed ledger that was invented by the pseudonymous Satoshi Nakamoto in 2008. The primary purpose of the blockchain is to serve as a record of transactions for which any alterations to the record are detectable. Records, referred to as blocks, contain cryptographically secured information about the previous record, creating a chain of linked records, allowing for independent validation of veracity through inspection of previous blocks in the chain; an altered record will not match previous records in the chain, and thus will be known to have been altered. As such, blockchain technologies use the blockchain as a means to ensure the integrity of information, usually transactional information, contained in block records.

Applications

The most well-known blockchain-based technology is the cryptocurrency bitcoin, for which it was invented, and the blockchain is often closely associated with cryptocurrency. However, other applications have been proposed for the blockchain, primarily for situations where a verifiable ledger of transaction records is desirable. Many of these proposals are either suppositional or in their early stages of development and widespread applications beyond cryptocurrency and, increasingly, the banking industry are limited at this time. While incarnations of blockchain technologies have been proposed within nearly every market and field imaginable, commentators both within these fields and in the cryptography community more generally have warned that much of this is "hype". The media (and funding) popularity of blockchain may be inspiring the proposing of blockchain technologies for markets where they are a poor, impractical, or impossible fit.

Within the art market, blockchain technologies have been proposed as a means by which provenance information can be assessed preceding a transaction. The idea behind this is that by having an unalterable chain of transactions concerning a piece of art, ideally leading back to the artwork's creation, a potential buyer will be able to verify that the art is both authentic and has not been subject to an unauthorised transaction (e.g. has not been stolen and resold). Blockchain technology proposals that include antiquities and for artworks created before the ledger in question are not envisioned to have records that extend to the creation of the objects, rather block records are envisioned to record transactional information from the point in which the object is first entered into the ledger. From there, transactions are then recorded in an unalterable way allowing buyers to ensure that the antiquity in question has not undergone an unauthorised sale since being entered into the ledger (note: a theft before entry into the ledger would not be detectable).

Blockchain technologies related to art provenance and developed by various for-profit companies have garnered a significant amount of press in recent years. Further blockchain

technologies in development are devoted to allowing entry into investment into fine art in various ways, devising new ways to pay artists, and allowing art to be transacted using cryptocurrencies.

Blockchain applications for art-related market

A number of start-up develop blockchain-based applications for the special needs of the art-related market. They include but are not limited to:

- Verisart[81] which uses blockchain to create a ledger of "permanent digital records for a physical artwork", referring to these records as certificates. They state that their records are public and "anybody can verify the existence of a certificate and check provenance instantly if they have access to the certificate", though the details of art transactions and the identity of the parties in involved are not publicly shared. They claim to be "building a new global standard for art certification and verification";

- Artory[82] a blockchain-based art provenance registry. Once an artwork is entered into the ledger, further records are added when that artwork is sold, valued, restored, etc, presumably provided that Artory is notified of such events by what they call a "trusted source" (e.g. an auction house, a gallery, a living artist). Artory promises complete anonymity to collectors while maintaining a publicly accessible registry of the artworks themselves. In October 2018 Artory collaborated with Christie's auction house to enter all the artworks in a sale onto the company's block chain ledger, the details of which would be passed on to buyers;

- Codex Protocol[83] is a blockchain-based provenance registry for art and collectables. The company envisions the use of their registry for various art market "solutions". The first of these to launch, Biddable, allows users to bid on art via the website LiveAuctioneers using cryptocurrency (though this particular feature was unavailable at the time of review), and items purchased are automatically entered as blocks on the Codex Protocol ledger;

- Artlery[84] is the creator of an "art-backed" cryptocurrency called CLIO. What this means, precisely, is undiscernible from the information provided on their website at the time of writing;

- Maecenas[85] a blockchain-based platform through which users invest in/take partial ownership of percentages of the value of a work of art so that the owner of the work of art can raise money. It is billed as a way for people to invest in art while avoiding auction and gallery fees as well as maintenance and insurance costs of the art and a way for art collectors to raise money based on the value of their artworks while physically keeping the art. That said, there is some indication that art listed on the platform for investment will be held in a secure storage facility. Maecenas uses blockchain to create the ledger of these transactions, which art investors and owners can check;

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[81] https://verisart.com/.
[82] https://www.artory.com/.
[83] https://www.codexprotocol.com/.
[84] https://artlery.com/.
[85] https://www.maecenas.co/.

- Fimart[86],a blockchain-based "fractional marketplace of art". Artworks are physically tagged and tag data is entered into the company's provenance tag database, and from there can be listed in their "fractional marketplace". Via Fimart, the owner retains both the physical artwork and a 51% stake in the ownership of the piece while listing the remaining 49% for sale to investors in fractional pieces. These transactions are maintained in a blockchain-based ledger.

None of the above-mentioned applications specifically focus on applying the blockchain to the antiquities trade, however it is assumed that antiquities can be registered within these ledgers like any other form of artwork. Antiquities-specific blockchain applications are currently rare and exist more as a possibility than a fully implemented application. For example, a proposal for 3D scanning of cultural heritage assets and storage of those assets in a private blockchain-based ledger has been proposed in a patent filed by researchers at Tsinghua University, presumably to provide evidence for repatriation if the antiquities in question are subsequently stolen, though it is unclear what added benefit a blockchain ledger serves in such circumstances.

Assessed Strengths

If applied in an open and distributed way, the primary benefit of blockchain technology in the art market is that it can eliminate dependence on previously established trust relationships between buyer, seller, and intermediary (e.g. dealer, auction house). A buyer need not place their trust in the honesty of a seller regarding an artwork's provenance and authenticity, they can consult a verifiable record of previous transactions. While this record is only as good as the information contained within it (see Assessed Weaknesses), it represents a movement away from a complete dependence on dealers for artwork information.

Assessed Weaknesses

Beyond the fact that previously unknown looted antiquities cannot be entered into a blockchain-based ledger, the primary weaknesses in the use of blockchain technologies as provenance registries for antiquities lies in the inherent disconnect between the physical objects and the digital ledger record. Even if the information in the blockchain ledger is both verifiable and accurate (which it may not be, see below), there is no unbreakable link between the digital record and physical object. The blockchain was developed to allow the transactions of the digital currency bitcoin, and bitcoins, as digital objects, do not exist beyond their blockchain record. Antiquities, on the other hand, are physical objects and their connection to entries in a blockchain ledger is dependant, usually, on a photograph included with the record and/or the application of a sticker which identifies the registry record associated with the antiquity. Removal of the sticker or alteration of the antiquity may render the piece unlinkable to its blockchain record.

Further, a blockchain-based provenance ledger, like any database, is only as good as the information that it contains. The registration of inaccurate or false information about the

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[86] http://www.looklateral.com/ecosystem/.

ownership history and source of an antiquity into a ledger backed by blockchain technology will create a largely permanent record which will be at best misleading and at worst exploitable by those seeking to launder illicit antiquities or pass fakes into the market. As such, companies who run blockchain-based art registries may restrict who may place new entries in the ledger in hopes of maintaining data integrity. However, research has shown that groups which are often listed as being trusted to register artworks on these blockchain ledgers (e.g. auction houses, dealers, collectors) contain actors who actively produce false provenance to hide the illicit origins of antiquities. The problem with art provenance data veracity in blockchain ledgers made headlines in mid-2018 when a man named Terence Eden was able to place an entry into the Verisart ledger certifying himself as the owner and creator of Leonardo's Mona Lisa with Verisart issuing a certificate saying that Eden's association with the work was "irrevocably sealed and permanently verifiable". He was not asked to provide any proof of ownership or proof of having created the piece, and was only asked to provide an email address and an image of the artwork (which he had downloaded from Wikipedia).

While most commercial firms operating in blockchain technologies for the art world describe their ledgers as public, this appears to largely be a linguistic stretch. While some limited transactional data is shared, nearly all companies surveyed assure the anonymity of sellers and buyers, at least in the public versions of their records. This limits the ability of independent researchers and law enforcement to use these ledgers to research the transaction and ownership histories of suspect antiquities which have been recorded, continuing an antiquities market tradition of opaque transactions and identity protection which can shield criminal activity.

One final but important weakness of blockchain technologies is that the inalterability of ledger records may violate the EU General Data Protection Regulation (GDPR). Transaction records, which may contain personal data like names or email addresses, cannot be removed from a blockchain ledger, even at the request of the individual whose personal data has been recorded.

Related Technologies

The blockchain is closely related to, and substantially based upon, a Merkle or hash tree, the concept for which dates back to 1979. Merkle trees demonstrate a similar structure of blocks, each containing information from the previous blocks to prevent alteration and maintain verifiability. Merkle tree blocks contain information from a series of two previous blocks (creating a treelike formation) while blockchain blocks contain information from a series of single previous blocks (creating a chainlike formation). The treelike formulation of Merkle trees means that blocks will not contain data from alternate and concurrent branches of the tree. Technologies based on Merkle trees may be just as suitable to some of the above-discussed art market uses as the blockchain.

A4.2   Crowdsourcing

Description

Crowdsourcing is a general term that refers to a number of practices that have the ultimate goal of obtaining money, services, or information from a wide public. While actions and campaigns that can be considered crowdsourcing occurred before the internet era, the term is most frequently used to describe online-appeals to internet users.

Crowdsourcing platforms
- So-called "crowdfunding" platforms such as Kickstarter[87] Go Fund Me[88], and Just Giving[89] where users as the public for money to fund the development of products, charities, medical treatment, etc. An example of an archaeology-focused crowdfunding platform is Dig Ventures;[90]
- Information sharing and data curation crowdsourcing platforms that seek voluntary contributions from internet users, such as Wikipedia;[91]
- So-called "citizen science" projects which invite internet users to engage in repetitive tasks, usually related to identifying certain patterns or transcribe words within images, such as Galaxy Zoo;[92]
- Paid work where a large number of users are paid very small amounts for completing small tasks which require a degree of human intelligence, the most well-known platform for these being Amazon's Mechanical Turk.[93]

On a less structured level, direct appeals to the public for information, about for example a crime, transmitted via social or traditional can be considered to be "crowdsourcing" that information. As such, crowdsourcing can be seen as a familiar tool for law enforcement to encourage informants to come forward which is bolstered by the reach of the internet.

Applications

Beyond direct public appeals from police for information regarding particular crimes, crowdsourcing techniques and technologies have been applied to the issue of illicit trafficking of cultural goods in a number of ways, usually by academic, journalistic, or private researchers, sometimes in collaboration with authorities.

Examples of crowdsourcing applied to trafficking in cultural goods
- In 2017, Dr Sarah Parcak of the University of Alabama at Birmingham launched GlobalXplorer[94] funded by a TED Prize and in collaboration with National Geographic. Using a "citizen science" model, GlobalXplorer invited anyone with an internet connection to explore satellite images of rural Peru for signs of archaeological looting and to mark where it was seen with the idea that the

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[87] https://www.kickstarter.com/.
[88] https://gofundme.com.
[89] justgiving.com.
[90] https://digventures.com.
[91] wikipedia.org.
[92] galaxyzoo.org.
[93] http://www.mturk.com.
[94] https://www.globalxplorer.org.

results of hundreds of people looking at the same satellite images will turn up a clear indication where looting might be occurring. Over 73.000 separate users have engaged with the platform. The information gathered was then transmitted to the Government of Peru, a partner in the project, and it is unclear at this time how Peru acted on the information gathered. GlobalXplorer is in the process of expanding to more locations;

- In 2012, investigative reporter Jason Felch announced that he was developing a crowdsourcing campaign called Wikiloot[95]. At the heart of this was a plan to place a significant number of photographs and other documentary materials seized in antiquities trafficking-related raids in Europe online for researchers and the general public to review so as to conduct their own investigations. Further, Wikiloot originally sought to model themselves after the whistle blower site Wikileaks, providing an anonymous platform for people to leak information about antiquities trafficking. While the idea for a platform gained much attention at the time, funding for it failed to materialise. In 2014, it was announced that the project was re-branded as Antiquarium, but at the time of writing, this platform has not been launched;

- In 2015 researchers Matthew Vincent and Chance Coughenour working under the name Project Mosul[96] began a crowdsourcing initiative, asking the public to submit their personal photographs of antiquities and heritage sites destroyed by the Islamic State in Iraq. From these images, they sought to use photogrammetry to create digital reconstructions of the lost pieces. They have since developed their reconstructions into a virtual tour of the Mosul museum.

Assessed Strengths

Crowdsourcing information about specific crimes from the public as amplified by social media is, at least on the outset, an inexpensive way for investigators to gain information that would be otherwise unobtainable. Although there is time-cost in processing the information gained, the only existing structure needed to engage in this form of crowdsourcing are active institutional social media accounts.

The use of crowdsourcing platforms, either in the form of easy information reporting (e.g. a pathway for online auction users to quickly report a suspect antiquities sale to authorities) or through bespoke "citizen science" platforms (e.g. GlobalXplorer which seeks to share crowdsourced looting data from satellite images with the Government of Peru) may prove a useful way to harness public interest in preserving cultural goods while increasing police and authorities' capacity. If carefully designed to produce a useable information stream for authorities and if built around operational needs, agencies and authorities that use targeted crowd sourcing to, say, monitor physical and digital antiquities auctions, keep an eye on social media, or assess various forms of collected data may find their staffing burden reduced. while simultaneously increasing public awareness about the issue of cultural property trafficking.

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[95] see: https://www.theguardian.com/science/2012/jun/06/wikiloot-crowdsourcing-stolen-artifacts.
[96] Now Rekrei, https://projectmosul.org/.

Finally, while the construction of a bespoke crowdsourcing platform to target cultural property crime would likely be time consuming and expensive, there is strong potential for law enforcement to work with auction and sales websites as well as social media sites to implement crowd sourcing reporting tools so that users can notify the platform of potentially illicit sales and to strengthen pathways towards information sharing with authorities. This basic form of crowdsourcing as crowd reporting harnesses the good-will of the platform and the interest that users have in internally policing crimes related to cultural heritage.

Assessed Weaknesses

Crowdsourcing has the potential to generate a significant amount of false or immaterial information as both well-meaning and malicious members of the public come forward. Time, effort, and expertise may be needed to sort through the information gained to determine if it is of use.

Further, depending on the goals of the crowdsourcing project, technical expertise may be needed to process the information collected and render it into the desired form. Also, existing crowdsourcing platforms may be inadequate for the goals of the project or the level of security required related to sensitive investigations, meaning that project or goal-specific platforms may need to be developed. Such development requires time, money, and technological expertise which is unlikely to be available in most circumstances.

Finally, there are significant questions about the ownership of the data that is collected from crowdsourcing projects. Issues related to data protection and control as well as the safety of both targets of inquiry and the members of the public conducting the information gathering must be carefully and thoroughly evaluated before any crowdsourcing project is implemented with regard to crimes related to cultural goods.

Related Technologies

Crowdsourcing can be considered more of a practice than a technology in its own right. Thus a number of technologies may feed into a crowdsourcing project. Those that relate to reducing the illicit trade in cultural goods include, but are not limited to:

- Satellite imagery analysis and remote sensing;
- Bespoke smartphone applications;
- Metadata analysis;
- Social network analysis;
- Web crawling and scraping;
- Image Recognition.

In all cases, crowdsourcing projects are designed around the data available and the specific technology or information source being monitored will dictate how the crowdsourcing can be approached.

A4.3   Metadata Analysis

Description

The term metadata can broadly be defined as saved data that describes other stored data. While the term can be applied to traditional data storage methods, for example, a physical card catalogue in the library stores what can be considered metadata about the data contents of books, "metadata" was coined in relation to computing and is most closely linked with extra data that is stored about data files.

The American non-profit National Information Standards Organization describes three types of metadata that can exist about a file:
- Descriptive metadata which allows files to be discovered by users and may include such information at file name, keywords, author/creator, etc.;
- Administrative metadata that helps with the organisation and sorting of the files in question and may include such information as time and location of creation, when the file was last modified, what model of device created the file, etc.;
- Structural metadata which may contain information about how files can be put together to be made into some set whole.

The first two types of metadata, descriptive and administrative, are most relevant to this discussion.

Metadata is an inescapable part of our digital lives, with at least some descriptive and/or administrative metadata generated for every file that we create on computers, smartphones, digital cameras, and other devices. Due to the ubiquity of this information and insufficient focus on computer literacy beyond functional use in all levels of education, most users are unaware of the amount of information that is stored within the digital files that they generate. The metadata that is stored alongside digital photographs, which can include such information as when a photo was taken, who took the photo (often by name), and the exact location where the image was taken, has provoked particular controversy at various points due to an increase in image sharing on social media. The tension between user sharing and user privacy remains unresolved, with metadata often at the centre of the controversy.

Applications

While it is possible for the knowledgeable user to delete, alter, or never store certain file metadata, many technology users use the default settings for phones, computers, and other technology devices and those settings usually include the storage of extensive metadata. This makes metadata analysis of files of particular interest to law enforcement as users who have become targets of official investigations may not know how much information they are sharing via photos, documents, or other files that they generate.

Analysis of this metadata can range from using the simple metadata reading tools available in the user interface of all major operating systems (for example, right click+Get Info on MacOSX) to the use of applicable command-line interface commands to inspect the file,

through to the use of bespoke applications. The results depend on how much metadata is present and how reliable it is.

In an extreme example, and due to the immediate nature of social media posting, such metadata can and has been used to pinpoint the exact location of users in near to real time. A more common law enforcement use of metadata is to analyse seized or intercepted files for metadata information to help identify or build a case against a suspect. The metadata associated with a digital photograph depicting the committing of a crime which has either been discovered by authorities on the internet or seized via a search of a suspect's devices may reveal where and when the crime took place and might also identify who took the photograph, allowing an investigation to be advanced.

This scenario is of particular importance to investigations related to the trafficking of cultural goods. Because much of the monetary value of cultural goods rests in the aesthetic qualities of these pieces, the transmission of images is an inescapable aspect of antiquities transactions. The ubiquity of phones with camera functions ensures that even "looters" in very low-income countries, as well as everyone on the antiquities smuggling chain, are able to document finds and share them with potential buyers. Metadata analysis conducted when such images are intercepted by authorities can produce information beyond what is shown in the photograph itself.

Assessed Strengths

As metadata analysis of freely available and seized files has become a common practice among investigative agencies, it is assumed that such techniques are already in use for antiquities trafficking investigations throughout Europe. Such analysis is very low cost, usually does not require special equipment or an advanced degree of technical skill, and takes very little time. It has the potential to reveal relevant information about the trafficking of illicit cultural objects for very little investment. This is a low-risk technique that has the potential for high gain for investigations.

Assessed Weaknesses

As mentioned above, electronic metadata is alterable. Not all files will have much, if any metadata, and existing metadata can be intentionally altered to be misleading. Knowledgeable digital application users may opt to keep their metadata generation on files to a minimum. Many social media sites (e.g. Facebook, Twitter, and Instagram) strip all original metadata from images uploaded to their service, meaning that images sourced from those services are not suitable for metadata analysis. These weaknesses, however, do not negate the potential usefulness of metadata if it is present and all seized and suspect images should have any potential metadata analysed.

Access to and analysis of certain types of metadata by law enforcement may be restricted. For the most part, these restrictions relate to communications metadata, such as the data generated by the act of sending a text message (i.e. identity of sender, identity of receiver, when the text was sent) without looking at the contents of the text message. The collection of such data is very different than looking at the metadata available with an image that is

freely available on the internet or that has been seized in a lawful way. However, anyone conducting such analysis should be aware of their organizational or national metadata policy.

Related Technologies

Use of web and social media scraping applications towards the detection of antiquities trafficking may incorporate metadata analysis. Some of these technologies specifically focus on scraping for particular file metadata.

A4.4   Satellite Imagery Analysis, Drone Photography

Description

Satellite imagery consists of various types of images of the earth taken from orbit by government or commercial satellites. Although such imagery has been collected since the 1960s and, notability, the launch of the Landsat programme in the 1970s, public use of satellite imagery became widespread in the 2000s as popular applications such as Google Earth which makes such imagery, much of it sourced from Landsat, available for free. Higher quality satellite images are collected by public and private bodies for purposes that range from security to scientific research, though access to this imagery may be limited. Satellite imagery of the Earth in the visible light spectrum displays land features from above within context of the surround landscape. Imagery in the non-visible spectrum, for example in infrared, can be used to detect land features that are otherwise unable to be seen with human eye.

Applications

While a full discussion of the technology involved in collecting satellite imagery is outside the remit of this review, the analysis of satellite imagery has a number of potential applications towards combatting the illicit trade in cultural goods in some circumstances.

When it comes to the detection of looting at heritage sites, consultation of satellite imagery may provide a way for researchers and authorities to track physical changes to the fabric of sites over time, map looting incidents, and identify looting "hot spots". In some locations, satellite imagery may be used for detection purposes to identify physical border crossings and pathways used during the transnational trafficking phase of the illicit movement of cultural goods. The extent to which these applications are operationally useful, however, is context specific.

It must be emphasised that most satellite imagery that is available for analysis does not represent either real time or even recent imagery, meaning that looters and traffickers are unlikely to be "caught in the act" by satellite imagery analysis. Thus such analysis is best used for quantifying damage over time and detecting past incidents of looting for recording and consideration. For the most part, this use of satellite technology for survey and recording of past looting incidents and interventions towards future protection has been

employed by academics and researchers (e.g. Brodie and Contreras, n.d.; Casana, 2015; Casana and Laugier, 2017; Caspari, 2018; Contreras and Brodie, 2010a, 2010b; Lasaponara and Masini, 2017; Lauricella et al., 2017; Parcak et al., 2016; Tapete et al., 2016), sometimes in concert with heritage protection authorities.

A similar technology which can be employed both for recording change over time, but also for real-time monitoring is the use of aerial photography taken from unmanned aerial vehicles, commonly called drones. Drone technology can be relatively inexpensive and can be employed at sites with known sensitivity to looting to monitor emerging looting situations. Such an approach has been taken at the site of Fifa in Jordan (Kersel and Hill, 2015), and is currently being employed by Peru's Ministry of Culture (Neuman and Blumenthal 2014).

Assessed Strengths

The use of remote sensing images, be they from satellites, drones, or other sources, is a well-known, much-used tool in archaeological heritage survey and preservation. There is ample expertise to draw upon when considering the utility of applying such technology to a particular context. Many collections of satellite images are free to access and use and tools such as Google Earth allow everyone, including police and preservation authorities, to access potentially useful data towards the recording of past looting incidents with the only financial outlay being in staff time and training. Further, authorities may have access to restricted, higher quality, government-level imagery that the general public does not have, potentially increasing their capacity to detect site damage. Drones represent an inexpensive and accessible way for authorities to gather their own aerial photography for analysis.

The use of both satellite imagery and drones allows for relatively quick survey of large areas that are potentially sensitive to looting from the comfort of a desk. This may reduce the staffing needed for on-the-ground monitoring and, particularly in the case of drones, could represent a way to target-harden remote heritage sites.

Assessed Weaknesses

While satellite and drone imagery have clear applications towards heritage site survey and monitoring, there are few, if any, applications of this technology towards reducing the market for illicit cultural goods or detecting later stage trafficking. Further this technology is only useful in locations where archaeological remains are clearly visible from the air, such as flat, arid or semi-arid lands with minimal tree or brush cover, and where looting takes the form of visible hole-making. This significantly reduces the locations within Europe that such technologies are immediately useful.

The ability to detect looting in satellite and drone imagery is dependent on the clarity and resolution of the photographs themselves. The free satellite imagery that is publicly available for many locations is not of high enough quality to definitively identify looting incidents within it, and higher-quality imagery is either expensive or unobtainable. False positives and false negatives are also common when identifying looting in such images and

in many instances, recording of looting within satellite or drone images must be followed up with physical site survey.

Related Technologies

Analysis and processing of satellite and drone imagery can, in some circumstances, be streamlined through the use of automated and semi-automated tools to detect patterns in the images. Such image recognition may reduce the amount of time needed to process large data sets, though false positives and, more concerning, false negatives for looting remain an issue.

The processing of satellite imagery can also be paired with citizen science style crowdsourcing, allowing members of the public to detect looting in photographs. This is the model used by the GlobalXplorer Project[97] which asks volunteers from the general public to record looting evidence in satellite images of Peru.

A4.5   "K-9 Artifact Finders" or Antiquities Sniffing Dogs

Description

So-called "K-9 Artifact Finders" are working dogs trained to detect scents related to recently excavated looted and trafficked antiquities. They are currently being developed and trained by the USA-based non-profit Red Arch Research in partnership with the University of Pennsylvania's Penn Vet Working Dog Centre and the Penn Museum.

Applications

At the time of writing, "K-9 Artifact Finders" are in early stages of development and training. If they prove effective, they are expected to join other working dogs employed by customs services at airports, border checkpoints, and other locations of cargo transit. Like dogs who are trained to detect drugs, biological material, and other contraband within luggage and cargo, the developers of "K-9 Artifact Finders" expect that the dogs will be able to detect recently-looted antiquities in the process of being smuggled and signal to their handler that certain bags, parcels, and individuals require further customs inspection. They also could be deployed during relevant police searches of individuals and properties.

Assessed Strengths

Searches of people and cargo in transit are limited and are not focused on cultural objects. Furthermore, customs agents and related security forces often have limited training in the detection of illicit cultural objects. It is especially difficult for agents to detect small objects like coins, which are easy for traffickers to conceal, and cultural works which are visually similar to modern-made tourist souvenirs and require expertise for identification. Should antiquities-detecting dogs prove effective at signalling the presence of recently excavated illicit cultural objects, they would provide agents with both an indication of who and what

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[97] https://www.globalxplorer.org/.

should be searched, and provide them with the confidence to hold suspect objects for specialist inspection.

The use of working dogs is common among customs and security forces at points of entry, and from a logistical and staffing perspective, the addition of a new type of dog to existing teams will likely be low impact. Furthermore, shippers and travellers are familiar with working dogs, their presence in port of entry facilities will not be disruptive.

Assessed Weaknesses

Antiquities-sniffing dogs are in an early stage of development and training and it is not yet certain that they will prove effective in detecting illicit antiquities in transit. They have not yet been trained, tested, or adopted at any port.

It is assumed that the dogs in question are being trained to detect odours related to the presence of soil on certain types of material associated with cultural artefacts (e.g. soil on ceramic, soil on patinaed bronze). It is unclear how the dogs will be able to separate these smells from those associated with outdoor activities or the production of modern arts and crafts, as well as distinguish the smell of transiting antiquities from residual orders on individuals and equipment associated with archaeological and other field work. A significant number of inaccurate signals from antiquities-sniffing dogs may greatly increase the number of unnecessary searches of individuals and cargo, costing facilities, travellers, and shippers time and money.

Related Technologies

Antiquities-sniffing dogs are a type of work dog classed as a detection dog. They are closely related in function to dogs used to detect narcotics and contraband biological and food products at airports and other ports of entry, and used by police forces for similar purposes.

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