



***The Nicosia Convention: a criminal justice response
to offences relating to cultural property***

Latvia Presidency – Council of Europe

National Library

***Riga
15 - 16 June 2023***

The Nicosia Convention

The importance of criminal response to crimes against cultural property

Professor Dr. Dr. Carlos María ROMEO CASABONA

Full Professor in Criminal Law

University of the Basque Country, Spain

carlosmaria.romeo@ehu.eus

The facts I

- Attacks on cultural heritage, an irrepressible criminal activity with high levels of impunity
- Over the last few years there have been various criminal manifestations against cultural heritage that:
 - ✓ they are increasingly diverse
 - ✓ present new characteristics or accentuate their criminal expansion
 - ✓ other legal ways than criminalisation to fight against cultural property attacks are still superfluous and useless
 - ✓ the traditional legal instruments of prevention and prosecution are insufficient
 - ✓ legal loophole or gap, since they have not evolved to adapt to the new forms of crime against cultural property
- *Nicosia Convention is a new legal tool that is changing radically the perspective:*
Convention on Offences relating to Cultural Property of 2017

The facts II

Organized transnational crime a very attractive target for its criminal activities:

- ✓ substantial benefits that it can bring to these criminal organizations
- ✓ relatively high impunity, in view of problems in obtaining compelling evidences to convict the perpetrators of the crime
- ✓ difficulty in prosecuting them across borders, largely shortage motivated by the lack of a strong international legal-criminal framework
- ✓ lack of efficient cooperation, also international

The facts III

Political and institutional evolutions, especially the abolition of borders between specific areas and regions.

A good example of this is the European Union, since the abolition of its internal borders (Agreement of Schengen) has favored the movement of people, goods, capital and services and, in this way, also illegal products and services and other goods and money of illicit origin (money laundering)

The facts IV

We are facing *new forms of attack on cultural property*, since it has an **ideological background**:

- ✓ Terrorism directly directed against cultural assets of incalculable value with the sole purpose of their destruction, wanting to express by that way the rejection of cultural values
- ✓ Other forms of illicit trafficking in cultural property related to terrorism directly seek to make a profit with the blatant purpose of meeting the expenses generated by their terrorist activity
- ✓ Contexts of armed conflicts, which have also caused concern for years due to their enormous, completely unjustifiable destructive capacity and because they facilitate acts of looting and robbery

The facts V

Technological development, including information technologies (IT) in particular, which allows and favors rapid communications and transfers, and therefore also money transfers that facilitate the laundering of money of illicit origin

International involvement

- Concern about the fight against attacks and illicit trafficking in cultural property goes back many years. This interest has been alive above all in the international framework, especially by international organizations
- The UN, UNESCO and the Council of Europe have been taking initiatives of varied scope and in any case pertinent, but also of doubtful effectiveness up to now.

The Nicosia Convention: a change of focus I

The Nicosia Convention represents a very important change of focus:

The Nicosia Convention involves a challenge to achieve a more efficient prevention and prosecution of attacks on cultural property, giving special attention to crimes related to various terrorist objectives and in the case of armed conflicts.

With this main objective, the Convention makes specific use of criminal legal instruments and the corresponding international cooperation, without prejudice to the fact that other protection resources can also be in mind.

The Nicosia Convention: a change of focus II

Objectives:

It is aimed at criminal prosecution of the most serious illegal acts against cultural assets, which are legal assets of special social value

In accordance with the mandate of the Committee of Ministers its specific purpose is to prevent and combat illicit trafficking in and destruction of cultural property, within the framework of the various actions undertaken by the Council of Europe to combat terrorism and organized crime, with particular intensity that of a transnational nature.

The Nicosia Convention: a change of focus III

2. The Nicosia Convention is of *a strictly criminal nature, which entails at the same time the prevention of criminal acts and their criminal punishment.*

(For some of these illegal acts, the Convention leaves it to the decision of the States to penalize them as crimes or as administrative offenses)

It states a set of crimes that attack cultural property that among other include:

- *theft or robbery and other similar criminal forms*
- *illegal excavation, import and export*
- *illegal acquisition and introduction of these goods in the market*
- *falsification of documents*
- *destruction or damage of cultural property when committed intentionally*

The Nicosia Convention: a change of focus IV

3. *Promotes international cooperation between states*, especially indicated in these crimes, which currently present a transnational dimension of organized crime, which requires:

- a legal harmonization of States on criminal offences
- a standard coordination of judicial bodies and
- intense collaboration of national police and European organizations as well as cultural institutions and bodies.

Some final remarks

- ✓ **Importance of increasing the signing and ratification of the Convention:** States must understand that it is essential to take seriously the criminal prosecution of crimes against cultural property
- ✓ The attitude that **seems to still exist of states that are depredated or victims of these crimes, of those that seem to ignore the predatory acts** that are committed in their countries, must disappear.
- ✓ It is also necessary to **strengthen international cooperation on various fronts** promoted by the Nicosia Convention.
- ✓ **Disseminate the Convention through various actions such as this Riga Conference**
- ✓ **Old, modern Europe must not forget the great historical and cultural wealth that past generations have been depositing in our hands,** and current generations must protect that legacy for our enjoyment and that of future generations.

The Nicosia Convention

Many thanks for your attention!!

Professor Dr. Dr. Carlos María ROMEO CASABONA*

University of the Basque Country, Spain

**** Member of the Committee on Crimes Related to Cultural Property (PC-IBC), in charge of drafting the Nicosia Convention.***

CoE and UN Consultant on Criminal Law and Bioethics

carlosmaria.romeo@ehu.eus