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**THE NICOSIA CONVENTION: A CRIMINAL
JUSTICE RESPONSE TO OFFENCES RELATING TO
CULTURAL PROPERTY**

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SESSION III - GOOD PRACTICES AND EXCHANGE OF EXPERIENCES

Good practices on illicit trafficking and restitution in Italy

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- Abstract -

Italy is one of only six countries to have ratified the Nicosia Convention in 2022 and the first country in the world to have established a police force specifically dedicated to cultural heritage in 1969 – the Carabinieri Command for the Protection of Cultural Heritage – one year before the 1970 UNESCO Convention.

The Carabinieri for the Protection of Cultural Heritage are functionally dependent on the Minister of Culture, and are in the Minister's Cabinet. Being one Office of the Ministry of Culture, it is not a collaboration between two bodies of the State, meaning that this police force and the Ministry of Culture together rely not only on crime investigation, but also on the power of the Ministry as a cultural policy-maker.

The Committee for the Restitution and return of cultural property unlawfully removed from the national territory – and under Directive EU/2014/60, also from a member State of the EU, is an inter-ministerial body of the Ministry of Culture established since 2005. Its members are the highest offices of the Ministry of Culture, the representatives of the State Attorney General, the Italian Desk of Eurojust (the European Union Agency for Criminal Justice Cooperation in The Hague), the Ministry of Foreign Affairs, the Ministry of Justice, and the highest offices of the Carabinieri Command for the Protection of Cultural Heritage .

Cultural diplomacy, a usual procedure: cultural cooperation agreements with museums.

After providing proof that an archaeological find or a work of art has been unlawfully removed from the Italian cultural heritage and illicitly exported from the national territory, the Italian Ministry of Culture offers a cultural cooperation agreement in which the illegally stolen objects can be loaned for 4 years, possibly renewable for another 4 years – as pursuant to the Italian Code for Cultural Heritage and Landscape – in exchange for the acknowledgement of the Italian property. The aim is not to empty museums and deprive them of collections. It is hardly conceivable that an archaeological find can be sold on the antiques market nowadays, not to mention the huge financial resources needed to buy it. It is then much more convenient for a

museum to make a cultural agreement with the Ministry and all its network of museums and have antiquities on loan.

Why the Nicosia Convention

Italy is one of the most pillaged countries and exporting countries in terms of cultural heritage. Archaeological finds illegally excavated and then exported are not fully protected by the UNESCO 1970 Convention, since they are not yet included in the State collections as they were looted before the State became aware of it, before becoming a state property. Also, unlawfully excavated archaeological finds that are subsequently exported illegally are not even protected by Directive EU/2014/60, since the Directive binds to prove that an artifact has been exported after January 1, 1993, and it is not possible to prove a definite date of exportation since the finds were excavated, precisely, unlawfully. Had the illegal excavations been known, they would have already been prosecuted by law by the Italian State. Due to the limit of January 1, 1993, almost 90% of the archaeological finds cannot be restituted and cannot be recovered.

It is therefore of the utmost importance to encourage States to sign and ratify the Nicosia Convention. The protection of cultural heritage, the fight against illicit trafficking and the restitution of cultural property to its country of provenance is an ethical cultural issue, not only for a looted and plundered country such as Italy, but for any nation.