



**COUNCIL OF
THE EUROPEAN UNION**

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CULT 116
ENFOCUSTOM 93**

"I/A" ITEM NOTE

From: General Secretariat
To: COREPER/Council

No. prev. doc.: 11402/2/12 REV 2 ENFOPOL 189 CULT 99

Subject: Draft Council Resolution on the creation of an informal network of law enforcement authorities and expertise competent in the field of cultural goods (EU CULTNET)

1. On its meetings of 11 July and 5 September 2012, the Law Enforcement Working Party (LEWP) discussed the Presidency proposal for creating an informal network of law enforcement authorities and expertise competent in the field of cultural goods and the above-mentioned draft Council Resolution.
2. The LEWP agreed on the draft Council Resolution as set out in Annex on its meeting of 5 September 2012, subject to a scrutiny reservation from the DE, NL and UK delegation. These reservations have meanwhile been withdrawn.
3. Consequently, COREPER is requested to invite the Council to approve the draft Council Resolution on the creation of an informal network of law enforcement authorities and expertise competent in the field of cultural goods (EU CULTNET) as set out in annex.

Draft Council Resolution
on the creation of an informal network of law enforcement authorities and expertise
competent in the field of cultural goods (EU CULTNET)

THE COUNCIL OF THE EUROPEAN UNION,

CONSIDERING that crime against cultural goods in general, and illicit trafficking of stolen cultural goods in particular, are serious offences because of the threat they pose to civilisation and because of their international and cross-border nature,

BEING AWARE of the importance of cultural heritage to all societies, considering the various risks of damage and loss to which cultural heritage is exposed,

TAKING INTO ACCOUNT the Stockholm Programme – An open and secure Europe serving and protecting citizens¹ which aims to make Europe more secure and protect the safety of citizens as well as to enhance and foster law enforcement cooperation in order to better combat the forms of crime that are typically cross-border in nature,

BEARING IN MIND

- Title V TFEU on the area of freedom, security and justice, and especially Article 87 thereof, which covers police cooperation involving all the Member States' competent authorities, including the police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences,

- Council Directive No 93/7/EEC of 15 March 1993², which sets out the procedures for the return of cultural objects which have been unlawfully removed from the territory of a Member State,

¹ OJ C 115, 4.5.2010. p. 1.

² OJ L 74, 27.3.1993, p. 74, as amended by Directive 96/100/EC of the European Parliament and of the Council of 17 February 1997 (OJ L 60, 1.3.1997, p. 59) and Directive 2001/38/EC of the European Parliament and of the Council of 5 June 2001 (OJ L 187, 10.7.2001, p. 43).

- Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods³, which ensures that the export of such goods is subject to uniform control at the external European Union borders,

- the Conclusions of the Council of the European Union on preventing and combating illicit trafficking in cultural goods⁴,

- the Council Conclusions on preventing and combating crime against cultural goods⁵,

- the Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the Work Plan for Culture 2011-2014⁶,

EMPHASISING that the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property signed on 17 November 1970 and the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects signed on 24 June 1995 are important instruments for strengthening protection of the global cultural heritage,

BEARING IN MIND Council Decision of 6 April 2009 establishing the European Police Office (Europol)⁷ and Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime⁸, insofar as they give those agencies competence in the area of illicit trafficking in cultural goods, including antiques and works of art, as well as the Council Decision of 20 September 2005 establishing the European Police College (CEPOL) as the EU agency tasked, *inter alia*, with providing specialist training for police officers in combating cross-border crime,⁹

ACKNOWLEDGING the work carried out by international organisations, such as Interpol, UNODC and UNESCO in the field of combating crime against cultural goods,

³ OJ L 39, 10.2.2009, p. 1.

⁴ 14224/2/08 CRIMORG 166 ENFOPOL 191.

⁵ 17541/11 ENFOPOL 415 CULT 111 ENFOCUSTOM 143 UD 337.

⁶ OJ C 325, 2.12.2010, p. 1.

⁷ OJ L 121, 15.5.2009, p. 37.

⁸ OJ L 63, 6.3.2002, p. 1.

⁹ OJ L 256, 1.10.2005, p. 63.

ACKNOWLEDGING that the various European and international instruments and initiatives aimed at coordinating law enforcement activities and strengthening cooperation of relevant services in the field of stolen cultural goods have already brought about tangible results,

TAKING INTO ACCOUNT the outcome of the international Joint Customs Operation COLOSSEUM aimed at combating illegal trade in cultural goods¹⁰, conducted in autumn 2011, in particular the recommendation to establish a network of experts in the field of illegal trade against cultural goods for a better exchange of information and experiences and to improve practical cooperation,

TAKING INTO CONSIDERATION the activities within the ongoing project “Psyche”, funded by the EU, as regards the modernisation of the Interpol “Stolen Works of Art” database, which is an important tool aiming to enhance the exchange of information between Member States and with third countries and relevant organisations,

NOTING that the European Union is an important region of origin, transit and destination for cultural goods,

RECOGNISING the need for a rapid and secure exchange of information and sharing of best practices between the Member States to effectively combat crime against cultural goods,

CONCLUDES that it is necessary to take further measures that will increase the effectiveness of prevention and combating of crime against cultural goods, in particular by creating a forum for the exchange of non-operational information, experiences and best practices throughout the European Union and facilitating contacts between the relevant law enforcement authorities of Member States and therefore

¹⁰ 10515/12 ENFOCUSTOM 45 ENFOPOL 159.

WELCOMES the creation of an informal network of law enforcement authorities and expertise, competent in the field of cultural goods (EU CULTNET), on the basis of the contact points for preventing and combating crime against cultural goods which have already been designated¹¹ for the purpose of strengthening coordination at national level between law enforcement and culture authorities and private organisations (e.g. antique shops, auction houses, online auctions),

UNDERLINES that the network should cooperate with relevant national authorities, as well as with relevant international organisations such as Interpol and UNESCO and third countries, in the field of cultural heritage and complement the activities carried out by existing European Union structures based on the existing EU instruments as well as the efforts of such international organisations where possible and legally permissible. The network should not duplicate the work of existing groups or interfere with ongoing law enforcement procedures and instruments and procedures of judicial cooperation, e.g. by exchanging findings of investigations, including personal data. The exchange of personal data, intelligence or findings of investigations could only take place if allowed by the national law of the Member State concerned and approved by the appropriate agencies and through the existing and secured official information exchange channels such as, amongst others, Europol's SIENA and the Interpol "Stolen Works of Art" database,

NOTES that law enforcement and judicial cooperation between Member States is governed by the existing relevant instruments and that the creation of an informal network is without prejudice to such provisions,

SUGGESTS that the network fulfil the following objectives:

- 1) ensuring that Member States become aware of countering crime against cultural goods at a strategic level,

¹¹ 6390/1/12 REV 1 ENFOPOL 31.

- 2) identifying and sharing, in compliance with data protection rules, non-operational information on criminal networks suspected of being involved in illicit trafficking of stolen cultural goods in order to determine the links between such networks and other forms of (organised) crime and to identify routes, destinations, *modus operandi* and trends and types of criminal activities in close cooperation with the different national and international stakeholders,
- 3) identifying the indicators of cross-border or even domestic criminal activity in connection with crime against cultural goods,
- 4) improving the exchange of information as well as contributing to risk and threat assessment studies where appropriate,
- 5) exchanging information about the law enforcement systems in each Member State and identifying possible legal and practical obstacles to cross-border cooperation,
- 6) exchanging best practices (i.e. new technologies, etc.), operational experiences and priority-setting methods,
- 7) sharing information regarding auction houses and websites used for the trading of cultural heritage objects,
- 8) sharing best practice on procedures for recording crime against cultural goods that will where possible improve the comparability and consistency of information,
- 9) considering, through the sharing of best practices, how procedures could be simplified for recording missing cultural goods in national Member States' databases and how the latter could be adapted to the Interpol "Stolen Works of Art" database, taking into account the best practices and techniques identified within the "Psyche" project funded by the EU,
- 10) encouraging the use of existing systems, such as the Interpol's "Stolen Works of Art" database and Europol's SIENA for the exchange of information on crime against cultural goods,

- 11) contributing to the better, faster and more efficient use of the official information exchange and cooperation channels, such as Europol, Eurojust, Interpol, UNESCO, WCO, etc.,
- 12) contributing to organising joint training activities for officers and investigators competent in the field of cultural goods conducted by CEPOL and taking this subject into account in exchange programmes and in the development of other CEPOL tools, also in cooperation with other relevant partners, e.g. UNESCO and the European Judicial Training Network,
- 13) preparing, in cooperation with Interpol, a handbook in order to combat crime against cultural goods more effectively in line with Council Conclusions on preventing and combating crime against cultural goods¹²,
- 14) ensuring coordination within the European Union in order to stress EU-specific concerns and to function as a multiplier, channelling needs and requests from Member States or member organisations,
- 15) developing a strategy on combating crime against cultural goods and preparing an action plan with concrete activities aiming to contribute to combating this form of crime,
- 16) considering, where appropriate, the existing national legal frameworks of Member States in the field of combating crime against cultural goods as a starting point for best practice sharing and cooperation,

¹² 17541/11 ENFOPOL 415 CULT 111 ENFOCUSTOM 143 UD 337.

SUGGESTS that the activities of the network be organised in the following way:

- 1) all Member States are invited to take part in the network as well as the Commission, Europol, Eurojust and CEPOL,
- 2) relevant international organisations, such as Interpol, UNESCO, WCO and UNODC are also invited to take part in the network,
- 3) specific arrangements for cooperation with third countries on protection of cultural heritage and combating international trafficking, and on procedures for the return of stolen goods, should be considered,
- 4) the customs authorities of Member States are invited to take part in the network because of their competence in monitoring and controlling the movement of goods that cross the external borders of the European Union,
- 5) the network should favour a multidisciplinary approach, drawing on the expertise of crime prevention bodies, local authorities, local partnerships, research institutions and nongovernmental organisations in Member States and other relevant authorities and organisations, and should coordinate its activities with the expert group to be set up under the Work Plan for Culture 2011-2014,
- 6) the meetings of the network should be needs-driven. Possibly the network would meet twice a year (under each Presidency),
- 7) the Presidency would coordinate the activities and chair the meetings of the network. The first meeting of the network would be organised and chaired by the Cyprus Presidency,
- 8) the network would regularly inform competent structures within the Council about its activities and about the follow-up to the relevant Council Conclusions in the field of combating illicit trafficking in and crime against cultural goods,

INVITES THE COMMISSION to consider the provision of financial support for the activities of the network set out in its action plan, such as, for example, promoting Joint Investigation Teams (JITs) and Joint Customs and/or Police Operations (JCOs/JPOs) such as JCO COLOSSEUM, within existing resources,

INVITES EUROPOL to provide practical support to the network, for example by making use of the Europol Platform for Experts (EPE) and promoting the use of SIENA,

INVITES CEPOL to continue organising training activities and to consider the development of other training tools in the field of cultural goods, with particular regard to its multilateral exchange programme, common curricula, e-learning modules or online seminars, in order to promote cooperation and to enhance the exchange of knowledge and good practice between the Member States in the field of cultural goods.
