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# **A Regulatory Framework for Art Trade in the European Union**

Faculty of Law, European Law  
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#### Abstract:

This thesis examines the regulatory framework applied to sales and acquisitions of cultural goods, especially artworks, within the European Union. The study is motivated by the growing economic significance of the art market and its increasing exposure to criminal misuse, including money laundering, illicit trafficking and terrorist financing. Special emphasis is placed on recently adopted EU legislation, the Fifth Anti-Money Laundering Directive and Regulation 2019/880 on the import of cultural goods, which mark a transition to a more coherent and preventative regulatory regime.

The research addresses four central questions: how the art market is regulated in the EU, to which crimes it is particularly vulnerable, whether the current regulatory framework is effective, and how it could be further developed. Using a non-doctrinal approach, the thesis systemises the applicable EU legislative framework and demonstrates that the art market's structural characteristics, including the portability of artworks, ambiguous valuation practices and historically fragmented oversight, create vulnerabilities to criminal exploitation.

The thesis concludes that while the Union framework is now more comprehensive and better suited to identify risks, the regulatory effectiveness remains dependent on consistent implementation across Member States, adequate enforcement capacity and meaningful cooperation between customs authorities, financial intelligence units and cultural heritage bodies. Variations in national practice are likely to constrain the uniform application of the regulations. Further harmonisation, strengthened oversight of storage facilities and clearer due diligence standards are required to ensure both market integrity and the effective protection of cultural heritage.

Keywords: art trade, cultural heritage, financial crimes, illicit trade, money laundering

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# 1. Introduction

## 1.1 The relevancy of a regulatory framework

The international art market, with global estimated sales of € 49.6 billion in 2024<sup>1</sup>, operates at the intersection of culture and commerce, encompassing multiple areas of legal practice, including but not limited to, contract law, trade law, cultural heritage law, customs law as well as criminal law. These rules govern the relationships between artists, collectors, dealers, auction houses, museums and government as well as private investors and financial institutions. Despite this extensive legal interaction, the art market has historically functioned with comparatively limited sector-specific regulation in the European Union, as well as internationally.

Until recent developments, the art market has been the last unregulated major market in the European Union. The lack of specific regulation has made art an attractive investment to those willing to bend the rules, making it one of the most lucrative markets for money laundering, evading sanctions and even terrorist financing. The high value, portability and tangible nature of artworks make them suitable vehicles for storing and transferring wealth. Although the art market has been affected by general trade laws, it is only in recent years that national, Union-wide as well as international legislation has specifically targeted the misuse of the art market.

At the same time, artworks and antiquities are not merely commodities. They embody historical memory, artistic expression and cultural identity. Cultural goods often carry significance that transcends economic value, and their unlawful removal or destruction may constitute irreversible harm to a State's cultural heritage. The tension between free movement of goods within the internal market and the protection of national treasures, as recognised in Article 36 TFEU (Treaty on the Functioning of the European Union), illustrates the delicate balance between economic integration and cultural preservation.

Within the domain of legal scholarship, the intersection of law and culture has been dominated by research of intellectual property rights, more specifically of copyright law and the protection of the artist's moral and economic interests. The focus of this thesis, the regulatory nature of the modern trade of cultural goods, remains under researched, leaving a gap within legal research

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<sup>1</sup> McAndrew 2025 a.

and overlooking the array of legal structures that play a role in the circulation, trade, ownership, storage and transportation of artworks and antiquities.

In recent years, the European Union has adopted significant legislative measures directly targeting vulnerabilities within the art market. The Fifth Anti-Money Laundering Directive (AMLD5) extended customer due diligence and reporting obligations to art market participants and freeport operators. Regulation 2019/880 introduced, for the first time, a harmonised Union framework governing the import of cultural goods. These developments signal a shift from fragmented oversight to a more structured regulatory approach. However, questions remain as to whether the emerging framework is sufficiently coherent, effective and proportionate.

The complexity of the art market, newly characterized by recent development of EU regulations, calls for the establishment of a coherent and systemic legal framework. It concerns not only the prevention of crime, but also the protection of cultural heritage, the integrity of the internal market, and the balancing of commercial freedoms with public interests.

## **1.2 Definitions of cultural goods**

A central concept of this thesis is cultural goods. The term does not possess a single universally binding definition but is instead defined through various international legal instruments.

The most well-known definition for 'cultural goods' is found in the 1970 UNESCO (United Nation Educational, Scientific and Cultural Organization) Convention on the means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO 1970 Convention). Article 1 of the UNESCO 1970 Convention defines 'cultural property' as "property which, on religious or secular grounds, is specifically designed by each State as being of importance for archaeology, prehistory, history, literature, art or science".

The UNESCO 1970 Convention also defines how the country of origin for a cultural object should be defined. Based on Article 4 of the Convention, property belongs to the cultural heritage of a State, if it has been created by the individual or collective genius of nationals of the State concerned; if it has been found within the national territory; if it has been acquired by an archaeological, ethnological or natural science mission, with consent of the competent authorities, in the country; if it has been subject of a freely agreed exchange; or if it has been received as a gift or purchases legally with the consent of the competent authorities of the country.

Article 36 TFEU and Article 2 of Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Directive 2014/60/EU) define cultural objects as national treasures that possess artistic, historical and archaeological value.

Article 1 of the UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague 1954 Convention) defines cultural property as “movable or immovable property of great importance to the cultural heritage of every people”. This may include monuments of architecture, art or history, religious or secular, archaeological sites, groups of buildings which are of historical or artistic interest, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest as well as scientific collections and important collections of books and archives or of reproductions of the prior. The Hague 1954 Convention also regards buildings, whose main effective purpose is to preserve or exhibit cultural property, such as museums, large libraries and depositories of archives, as cultural property.

### **1.3 Research questions and methodology**

Partly due to the recentness of art trade-specific legislation in the EU, a certain blank space exists in scholarship regarding the trade of art and cultural goods. For this reason, this thesis will aim to create a coherent view of the European regulatory framework for the art market, by exploring how the movement of artworks and other cultural goods between countries and sellers is regulated in the EU. The thesis aims to contribute to a broader understanding of art as both a cultural and economic asset, with focus on the tension between cultural rights and commercial interests. It seeks to assess the art market through a legal lens, providing a coherent overview of the framework governing the art market.

First, the thesis aims to examine how the trade of cultural goods is regulated in the European Union. This involves mapping the previously existing legislative framework along with more recent art market targeted regulations. Second, the thesis examines the types of criminal conduct to which the art market is particularly vulnerable. Understanding these vulnerabilities is essential for evaluating whether existing regulation addresses the underlying risk factors. Third, the thesis assesses the effectiveness of the current regulatory framework. Effectiveness is examined from both a normative and practical perspective. Normatively, the analysis considers whether Union legislation adequately responds to identified risks and whether the allocation of competences between Member States and the Union supports coherent enforcement. Practically, the study

evaluates challenges related to implementation. Finally, the thesis explores potential avenues for future development of the legislative framework governing art trade.

In order to establish a regulatory framework for art trade in the EU, the research method used for this thesis will be non-doctrinal research, which focuses on examining the social, economic and political factors that influence the law and its application. It investigates how law operates in society and aims to systemize and cohere empirical knowledge on the topic. While the thesis remains primarily normative and legal in orientation, it acknowledges the interdisciplinary nature of the art market by incorporating insights necessary to understand valuation practices, provenance challenges and market structures that directly influence regulatory effectiveness.

#### **1.4 Sources used**

The thesis relies primarily on EU legislation, along with relevant case law from the Union's court, where applicable, as well as comments, rapports and other relevant documents from different EU bodies. International instrument as well as national legislation and case law is used to provide context for issues examined in the thesis. The thesis also utilises academic literature and doctrine in art law, cultural heritage law and financial crime research to support the analytical framework. Industry reports and policy papers are referenced, where relevant.

Artificial intelligence has been used for assisting in finding sources as well as for proof reading produced text in some instances.

## **2. The Art Market as a Legal Research Object**

### **2.1 The nature of art sales**

#### **2.1.1 Characteristics of the art market**

The art market examined in this thesis deals with tangible pieces of fine art and antiquities, namely physical objects of artistic, historical, or cultural significance. This includes paintings, sculptures, drawings, prints, rare manuscripts, archaeological artefacts, and other movable cultural objects that can be transferred, stored, imported and sold. By contrast, the market for digital artworks and emerging art forms, such as non-fungible tokens (NFTs), constitutes its own, distinctive forum, that falls outside the interests of this thesis.

The counterparts of an art sale can be categorized as the artist (the producer of the commodity), the buyer (the consumer), and the intermediaries that sell art, meaning auction houses, galleries and art dealers. The art market can be divided into primary and secondary markets, where the artist sells their works on the primary market and galleries or auction houses sell these commodities on the secondary market.<sup>2</sup>

A characteristic legal challenge of the art market is that the value of an artwork is normally perceived within the parameters of art instead of economics.<sup>3</sup> The art market lacks an authoritative framework for valuing artworks. For example, Directive 98/6/EC on consumer protection in the indication of the prices of products offered to consumers (Directive 98/6/EC) does not apply to works of art and antiquities.<sup>4</sup> There is no set of rules in place to determine the value of an artwork, but the price is rather determined based on the appetite of the buyers, and on factors like artist reputation, attribution, signs of authenticity, medium, size, topic, and the timing and location of the sale. The owner of a Gauguin or a Caravaggio possesses monopoly on that certain piece, which makes comparison, and therefore valuation, between artworks difficult. This feature makes the art market unique compared to any other major market.

The art market operates on a wide scale of price points. Although roughly sixty percent of all art sales in Europe cost less than four thousand euros,<sup>5</sup> the fine-art market along with its record-breaking art sales is more known to the public. *The Card Players* by Paul Cézanne, sold for \$ 250 million, was the most expensive painting ever sold at the time of its sale in 2011. The record has since been topped twice, by *Interchange* by Willem de Kooning selling for \$ 300 million in 2015 and the *Salvador Mundi*, believed to be the last painting painted by Leonardo Da Vinci, selling for \$ 400 million in 2017.<sup>6</sup> The *Salvador Mundi* was acquired by an American art dealer for \$ 10,000 in 2025 at an estate sale in New Orleans, and after extensive restorations auctioned off at Christie's for the record-breaking price.<sup>7</sup> To this day it remains the most expensive painting privately sold.

### 2.1.2 Different forums for art purchases

The most lucrative forum for sales of artworks and antiquities is at auction, with a \$ 25.2 billion total sales in 2019, a number that is globally surging due to increasing accessibility through

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<sup>2</sup> Boll 2023, p. 3.

<sup>3</sup> *Ibid.*, p. 4.

<sup>4</sup> 98/6/EC Article 3.

<sup>5</sup> Boll 2023, p. 4.

<sup>6</sup> Ajayan 2025.

<sup>7</sup> Wilson 2022, p. 53.

internet sales.<sup>8</sup> Auction houses offer a credible market platform for selling and buying art, as they typically employ a vast number of art professionals who are able to restore and authenticate works taken in for auction sales. Auctioning offers an effective way to determine the value of an artwork, as opposed to private sales between the buyer and the seller. Through auction, the art sale, and therefore the value of the artwork, becomes publicly available information, making it easier to value future sales of a specific piece or of artworks alike.

Another reason for the popularity of auctions is the secrecy and discretion they offer. Participants in an art trade might want to remain anonymous, often for legitimate motivations, such as the risk of becoming a target for art thieves or to avoid critique of extravagant purchases or details of personal life, such as divorce or bankruptcy.<sup>9</sup> In auction settings buyers may be represented by auction employees on the phone with their client or by agents, meaning that they never need to publicly reveal their identity.<sup>10</sup>

During the 1960s art galleries established themselves as the place to acquire contemporary art, due to the generally high quality of shows as well as the notice they acquired from an international audience. A central reason for the sudden rise of galleries was due to their connections to museums, which were backed by government-funded purchasing power.<sup>11</sup> Galleries are firms that buy the work of contemporary artists, generally before they are picked up by museums. The gallery does not only act as the middleman between the work of art and the buyer, but it also makes the artwork accessible to the public. Galleries are therefore said to mediate the relationship between artist and buyer, often representing artists who have not yet developed a reputation. It is therefore often also a chance for artists to showcase their work to a wider public for the first time.<sup>12</sup>

Art dealers offer art and antiques in sales rooms, at fairs and via the internet.<sup>13</sup> Unlike auction houses and galleries, art dealers operate privately, without public listings. Barriers for entrance is low, as operating does not need a business space, and no special licenses need to be obtained in order to start business. However, competition in the field is high, as currently there are, according to some estimates, 300 000 art dealers active around the globe.<sup>14</sup>

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<sup>8</sup> Wilson 2022, p. 82.

<sup>9</sup> Burroughs 2019, p. 1074.

<sup>10</sup> *Ibid.*, p. 1072.

<sup>11</sup> Boll 2023, p. 17.

<sup>12</sup> *Ibid.*, p. 23–24.

<sup>13</sup> *Ibid.*, p. 23.

<sup>14</sup> Velthuis 2011, p. 29.

### 2.1.3 Art consultants and advisors

Art consultants play an important role in the art market. Through their knowledge of art history, tax law and business, they support collectors and museums throughout the acquisition process. Consultants are particularly important to corporate collections. Art consultants typically work on commission, but very large private collections may have permanent, salaried consultants. Some modern galleries even have their own departments that offer consultation and artists may commission consultants in the process of selling their own work.<sup>15</sup> Some banks and insurance companies might also offer art consulting as a service, since the acquisition of art is often deeply tied to financing, investment advice, financial planning and insurance.<sup>16</sup>

In Member States with more developed art markets, art consulting is regulated on a national level. In Germany, art consultants are certified by the Chamber of Industry and Commerce, and in France, by the Auctioneers Council. In France art consultants must be publicly appointed. The sworn in advisors may then act as advisors for insurance purposes and in court. Their job in these processes is to establish the authenticity and value of artworks. A list of approved experts is published by the institutions appointing them.<sup>17</sup>

## 2.2 The development of the European Art Market

Modern art trade can be traced back to the nineteenth century, to the reformation of British inheritance law through the passage of the Settled Land Act. As the industrialization led to bankruptcies throughout Britain, the new legislation made it possible for landholders to protect their property by selling away their art. Until the Settled Land Act, estates were strictly settled, meaning that instead of owning the land and estate goods, families were entrusted to preserve and protect their property. This was meant to prevent large estates being sold off in sections. The Settled Land Act made it possible to sell individual portions of an estate, such as works of art, in order to save the property's land and buildings. This encouraged a spate of auctions of aristocratic collections.<sup>18</sup> The current form of art auctions dates back to 1957, when Sotheby's held an auction of the *Weinberg Collection* in London. It was the first time that an auction had been marketed as a social event, and even the Queen was invited and attended.<sup>19</sup>

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<sup>15</sup> Boll 2023, p. 27.

<sup>16</sup> *Ibid.*, p. 28.

<sup>17</sup> *Ibid.*

<sup>18</sup> Britannica Money. <https://www.britannica.com/money/art-market/The-growth-of-the-auction-market> (20.2.2026).

<sup>19</sup> Boll 2023, p. 16–17.

The contemporary structure of the modern art market began to form in the late 1900s, during the rise of Pop Art and Neo-Expressionism. Particularly the 1960s onward has come to be known as the era of Andy Warhol, the Factory and other superstar painters, such as Jean-Michel Basquiat and Keith Haring. It is also known as the era of big-name art dealers, such as Leo Castelli. Castelli was the first American art dealer to partner with dealers in post-war Europe, making American contemporary artists available for a new European collecting class, as well as bringing European surrealists, Salvador Dalí and Max Ernst to American collectors.<sup>20</sup> Mary Boone was also one of the most notable influencers of the 1900s art trade, later imprisoned for art market related tax fraud.<sup>21</sup> Boone managed artists like Julian Schnabel, whose prices rose from \$ 3,000 to \$ 93,500 during the 1980s, and Basquiat, whose works quickly began generating millions of dollars a year.<sup>22</sup> The 1980s have later been described as the golden years for contemporary art, rooted in materialism and post-war ideology of a free market.<sup>23</sup>

In Europe, London in particular became a major centre for auction houses. British auction houses, Sotheby's and Christie's expanded aggressively during the post-war period and strengthened the city's position as a global trading hub for fine art and antiquities. Paris, an already established centre of modernism, continued to exert cultural influence, while Switzerland developed into a significant location for art storage and trade. Major European art fairs, such as Art Basel, founded in 1970 and later Frieze London, founded in 2003, became central marketplaces for art, reinforcing Europe's structural importance in the global market. The art fair model strengthened cross-border transactions and intensified competition among galleries.

The further escalation in the market during the beginning of the 2000s was a consequence of the financial crisis in 2008, followed by stricter regulations worldwide for financial institutions. The introduction of the American Foreign Account Tax Compliance Act (FATCA) in 2010, the Organisation for Economic Co-Operation and Development (OECD) Common Reporting Standards (CRS) in 2014 and the Council Directive 2011/16/EU on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (DAC) collectively led to the increase of surveillance of bank secrecy, forcing banks and financial institutions to adopt stronger identification principles. Art became an attractive investment due to the market being

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<sup>20</sup> Freeman 2018.

<sup>21</sup> The New York Times 14.2.2019.

<sup>22</sup> Ardenne 1995, p. 108.

<sup>23</sup> *Ibid.* p. 100.

characterized by a lack of regulatory authority, a deficient pricing mechanism, non-transparency and the subjective value and illiquid nature of art as well as its diversification potential.

### 2.3 Art as an asset class

The combination of more stringent regulations on the financial sector along with the rise of online art sales during the 21st century introduced art not merely as objects of aesthetic value, but also as an asset class. Art trade, previously mainly conducted between museums, galleries and collectors, was introduced to a new class of shareholders, e.g., art investors, who viewed the art world primarily through economic return. The shift has incorporated artworks into investment portfolios and created a lucrative market for art investors. A reason for the financialization of the art market is art's perceived ability to retain and increase its value, even in times of recession, which was noted during the 2008 financial crisis. In 2015, Larry Fink, Chairman and CEO of BlackRock, even went on to claim that gold had lost its diversification power and that one of the greatest storers of wealth was contemporary art.<sup>24</sup>

Although those in favour of art as an investment claim that the unique characteristics of the art market make art a lucrative investment to investors willing to grow their expertise in the field, critics of the market claim the same characteristics to denote art as the riskiest asset class, prone to investment losses.<sup>25</sup> For example, the subjective nature of art pricing makes it susceptible to trends. An example of this is the works of Jean-Michel Basquiat, whose annual auction sales plummeted 50 percent in 2022 compared to a record high \$439.6 million in 2021.<sup>26</sup> Another example is Claude Monet's *Dans la Prairie*, that sold for 10 million GBP at Christie's London in February 2009, while previously having been sold for 14.3 million GBP at Sotheby's London in 1988, and \$15.4 million at Sotheby's New York in 1999.<sup>27</sup>

A study performed in 2012, on how art investments compare to other, more traditional asset classes, based on art sales during the period 1957 – 2007, showcased, that over a longer time frame, the art index clearly underperformed stocks – during the examined period, the S&P 500 and GFD global equity index had appreciated at average real rates of 6.63 % and 6.34 %, while the art index had increased by 3.97 % annually. However, compared to other tangible assets, such as

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<sup>24</sup> Business Insider 2015.

<sup>25</sup> The Art Fund Association LLC. [https://www.artfundassociation.com/what\\_are\\_art\\_funds/basic\\_af.html](https://www.artfundassociation.com/what_are_art_funds/basic_af.html) (20.2.2026).

<sup>26</sup> Renneboog *et.al.*, 2012, p. 2.

<sup>27</sup> *Ibid.* p. 16.

gold and real estate, art did relatively well.<sup>28</sup> On the contrary, Deloitte's 2019 Art and Finance Report noted that Artnet's Index for Top 100 Artists produced an 8 percent Compound Annual Growth Rate between years 2000 and 2018, compared to 3 percent for the S&P 500.

A separate study found that art can be a safe-haven investment during geo-political crises. The study investigated art market returns in the period 1907 – 2016, with special attention to times of World Wars, the Great Depression, the oil crisis, the recessions of the 1980s and the 1990s and the 2008 financial crisis. The study found, that while art returns plummeted at the onset of wars, they became positive in the later years of the war, outperforming equities. However, art as an investment performed poorly in times of recessions, with returns even lower than those for equity, suggesting that art does not qualify as a safe-haven investment during times of recession. The materiality of artworks also makes them a vulnerable investment type, as they can be subject to material damage.<sup>29</sup>

## 2.4 Acquiring artworks

### 2.4.1 The participants of an art sale

Due to the art markets multifaceted nature, it is important to determine the participants of an art sale. At the most basic level, the participants of an art sale typically include the seller and the buyer. However, these parties are often represented or assisted by intermediaries such as galleries, auction houses, art dealers, advisors or agents. Additionally, other actors in the sale may include collectors purchasing through corporate vehicles, estate representatives, insurers, logistic providers and art handlers.

Due to the tangible and movable nature of artworks, Directive 2011/83/EU of the European Parliament and of the Council on consumer rights (Consumer Rights Directive) applies to art sales in situations where the buyer is a natural person acting for purposes outside his trade, business, craft or profession.<sup>30</sup> Despite a lack of a definitive consumer *acquis* within EU law, the common core to be found in legal praxis throughout the Union, is that a consumer is a natural person, who is acting outside the scope of an economic activity. Under EU law, the Court of Justice has consistently held against giving a wide interpretation to the term, leaving, for example, legal persons out of the scope, even if they might have a non-business character. On the contrary,

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<sup>28</sup> David *et.al.* 2024, p. 32.

<sup>29</sup> David 2016, p. 8.

<sup>30</sup> 2011/83/EU Article 1.

the definition varies throughout national regulations and in many Member States legal persons have been included in the definition of consumer, when they are acquiring goods for private use or act as final users.<sup>31</sup>

While online auction sites do not fall under the scope of the Consumer Rights Directive, it is important to note that customer protection rules also apply in public auctions, i.e., auctions, where sellers and buyers are given the opportunity to attend the auction in person.<sup>32</sup> As auction houses, together with galleries, hold a dominant position in the art market, the majority of business-to-consumer art sales fall within the scope of the Consumer Rights Directive.

Online art sales have grown significantly since 2020 and the COVID-19 pandemic. Any contract concluded between the seller and buyer without a simultaneous physical presence with use of distance communication may be referred to as a distance contract.<sup>33</sup> Article 9 of The Consumer Rights Directive grants consumers purchasing art online a 14-day withdrawal period from the day on which the consumer acquires physical possession of the goods. This withdrawal may also be done before acquiring physical possession of the goods. Article 6 of the Directive requires the seller to provide the buyer with adequate information regarding the artwork before the buyer is bound by a distance contract. For example, inauthenticity could be grounds to withdraw the purchase as according to Article 9, when an inauthentic artwork has falsely been sold as authentic. According to Article 10 of the Directive, the seller is required to inform the buyer of the withdrawal period. The exercise of the right of withdrawal terminates the obligations of both parties.<sup>34</sup>

An important aspect of consumer rights is the seller's legal obligation relating to the guarantee of conformity. The seller is obliged to reimburse the price paid or to replace, repair or service goods in any way, if they do not meet the specifications or any other requirements set out in the guarantee statement or other relevant advertising.<sup>35</sup> In art sales, the guarantee of conformity comes to question especially in situations where counterfeit goods are being sold as authentic works.

In addition to the responsibilities of the seller, the buyer is required to exercise reasonable diligence, when purchasing art. While there is no uniform or binding definition of what this

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<sup>31</sup> Library of the European Parliament 2013.

<sup>32</sup> 1999/44/EC (24).

<sup>33</sup> *Ibid.*, Article 2.

<sup>34</sup> *Ibid.*, Article 12.

<sup>35</sup> *Ibid.*, Article 2.

constitutes, the buyer is advised, in addition to external qualities, to be aware of the history behind the work, its ownership, provenance and origin as well as import, export and tax status. Two of the most central issues when conducting diligence, and the ones that most often lead to legal disputes, are title and authenticity. Without clear title, the purchaser is subject to the risk of third-party claims and is likely to face difficulties in arranging insurance for the artwork, lending it to an exhibition or disposing of it.<sup>36</sup>

Whereas a title might be fixed or extinguished by the passage of time, the authenticity of an artwork is a matter substantially beyond the legal sphere.<sup>37</sup> In EU legislation, the sellers responsibility to prove authenticity falls within the scope of the EU Consumer Rights Directive, if the purchaser is a natural person purchasing from an entity acting within the scope of an economic activity. Customer-to-customer or business-to-business sales are not regulated at Union level, which is why appropriate safeguards should be included in the sales contract, for the event that, despite prior inspection, the artwork is found not to be genuine.<sup>38</sup> Appropriate safeguards could mean referencing the laws of a Member State with such rules in place.

The United Nations Commission on International Trade Law regulates international trade contracts in the UN Convention on Contracts for the International Sale of Goods (the CISG). The CISG, drafted in 1980, has, as of 2024, been adopted by 97 countries, including most of the Member States. The CISG applies to contracts for sales of goods, when the contracting parties have places of business in different states. The nationality of either party or the civil or commercial character of the parties is to be taken into consideration, when applying the Convention.<sup>39</sup> The CISG does not apply to sales by auction or to sales of goods bought for personal, family or household use, unless the seller was unaware of the good being bought for such use.<sup>40</sup> This excludes a huge part of art sales but does still leave room for application to sales made for investment purposes or by trade. The contracting parties also have the opportunity to exclude the application of the CISG.<sup>41</sup>

Section II of Chapter II of Part III of the CISG regulates the conformity of the goods. According to Article 35, the seller must deliver goods which are of the quantity, quality and description required by the contract. Article 36 of the CISG also claims, that the seller is liable in accordance with the

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<sup>36</sup> Kurtz *et.al.* 2016, p. 2.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> CISG Article 1.

<sup>40</sup> *Ibid.*, Article 2.

<sup>41</sup> *Ibid.*, Article 6.

contract for any lack of conformity which exists at the time when the risk passes to the buyer, even when the lack of conformity becomes apparent only after that time. This could mean, for example, depending on the circumstances of the sale, that a seller could be held responsible for the inauthenticity of a sold artwork, even if the artwork was thought to be legitimate at the time of the sale.

However, Article 38 states that the buyer must examine the goods, or cause them to be examined, within as short a period as is practicable in the circumstances, and as stated in Article 39, loses the right to rely on a lack of conformity of the goods if they do not give notice to the seller specifying the nature of the lack of conformity within a reasonable time after it has been discovered. In any event, the buyer's right to rely on a lack of conformity may extend by most to a period of two years, unless otherwise agreed upon. Articles 38 and 39 do not apply in situations, where the seller was not aware or could not have been unaware of the lack of conformity.<sup>42</sup>

In case that the seller fails to perform any of the obligations under the contract or the CISG, the buyer may exercise the rights to require performance, substitute goods or conformity by repair.<sup>43</sup> If the seller is unable to perform any of these requirements, the buyer is eligible to declare the contract avoided.<sup>44</sup> Both seller and buyer are eligible for damages for breach of contract by one party, consistent of a sum equal to the loss of profit, suffered by the other party as a consequence of the breach.<sup>45</sup>

#### 2.4.2 Intermediaries

In art auctions or gallery sales, the auction house or gallery acts as an intermediary between the seller and the buyer. Although the sales contract is born between the seller and the buyer, the intermediaries have duties and responsibilities, either contractual or legal.<sup>46</sup> Auctioneers, gallerists and dealers have a responsibility to describe the artwork for sale accordingly and to value the item and its origins properly. This applies to sales, when either of the participating parties is either a natural person or a legal entity. The most common claims against art market intermediaries are typically brought for a failure to ensure the product is as described, a product

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<sup>42</sup> CISG Article 40.

<sup>43</sup> *Ibid.* Articles 45-46.

<sup>44</sup> *Ibid.* Article 49.

<sup>45</sup> *Ibid.* Article 74.

<sup>46</sup> Whiddington 2024.

is mis-valued, a product is described incorrectly, the product is from unknown origins or is stolen or the product is damaged in the auctioneer's care.<sup>47</sup>

Perhaps the most common form of negligence in art sales is related to the authentication of artworks. Intermediaries may be alleged to have failed to correctly identify the authenticity of an artwork, which has then led the artwork being sold for either less than its true value or for more than its true value. In these cases, the original source of the work needs to be determined. This takes place with the assistance of scientists and art experts. Legal interests often lie in whether the professional was negligent in reaching the conclusion of the artwork's authenticity.<sup>48</sup>

When determining the standard of care required from a professional, it is established by reference to the professional's peers at the time. Once this is determined, the second exercise is to determine whether the professional fell below that standard, when reaching the conclusion of the artwork's origin. Because a large part of an auctioneer's work is in forming judgment of the pieces being auctioned off, it is not enough to demonstrate that another auctioneer would have exercised their judgment in a different way. Therefore, the test of negligence is that the auctioneer must have exercised his judgment in a way that no reasonably competent auctioneer would have done.<sup>49</sup> Because the valuation of the origin of an artwork is pre-eminently based on the exercise of opinion and judgment, attributing a painting to a certain artist is not an exact science, The judgment may be fallible, and a professional should not be deemed negligible due to a failure to reach a correct conclusion.<sup>50</sup>

In 2006, a Malta-based investment company purchased at auction for € 2.88 million a painting entitled *Red Painting with Horses*, allegedly painted by Heinrich Campendonk. The historic existence of the *Red Painting with Horses* has been documented in Campendonk's *catalogue raisonné*, dating back to 1914. However, following the auction, it was discovered, that the painting contained pigments that could not date from earlier than the 1940s. In its decision delivered in 2012, the Regional Court of Cologne held that the auction house had breached its duties of diligence towards the buyer when selling the *Red Painting with Horses* and was required to reimburse the purchase price to the buyer. The Court held, that since the *catalogue raisonné* had not shown information of the paintings image, appearance, measures, material or whereabouts, and due to the high price potential of the painting, the pigment analysis should have been part of

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<sup>47</sup> RPC. <https://www.rpclegal.com/thinking/professional-and-financial-risks/claims-against-auctioneers---not-going-going-gone/> (22.2.2026).

<sup>48</sup> Wilson 2022, p. 83.

<sup>49</sup> *Ibid.*, p. 84.

<sup>50</sup> *Luxmoore-May v Messenger May Baverstock* [1990] AII ER 1067, CA.

the auction house's duty of care.<sup>51</sup> The case showcases that the value of the work is tied to the degree of care required from intermediaries.<sup>52</sup>

## 2.5 Other art sale regulations

Before Brexit, the United Kingdom held the largest art market in EU. Since then, France has replaced the UK, accounting for over half of all EU art sales.<sup>53</sup> The effect of the UK on the global art market is, however, still present even in the EU, as most art sale contracts still refer to British law. This is due to the highly developed art law in the UK, which is in turn the result of high art market traffic. A 2015 report noted that at the time there were 167 laws and regulations that applied to the British art market.<sup>54</sup> British art market regulations also affect the EU market, as London is the only city in Europe to hold large auctions for major auction houses, Christie's and Sotheby's.

The Artist's Resale Right Regulations 2006 regulates the right of artists to receive payment on the sale of their works. According to the Regulations, the author of a copyrighted work shall have a right to a royalty on any sale of the work which is a resale subsequent to the original sale by the author. This right is called the resale right.<sup>55</sup> The resale right should subsist for as long as the copyright subsists in the work.<sup>56</sup> A work may mean any work of graphic or plastic art such as a picture, a collage, a painting, a drawing, an engraving, a print, a lithograph, a sculpture, a tapestry, a ceramic, an item of glassware or a photograph. A copy of a work may not be regarded as a work unless the copy is one of a limited number which have been made by the author or under the author's authority.<sup>57</sup> The Regulations also state that a resale right is not assignable and that any charge on a resale right is void<sup>58</sup> as well as a waiver of a resale right.<sup>59</sup> The resale right may, however, be transmitted to a qualifying body (a charity)<sup>60</sup> or by testamentary disposition or in accordance with the rules on intestate succession.<sup>61</sup> The seller, the agent of the seller, or in case

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<sup>51</sup> LG Köln, 28. 9.2012, 19 U 160/12, GRUR-RR 2012, 444, *Campendonk*.

<sup>52</sup> Kurtz *et.al.* 2016., p. 7.

<sup>53</sup> ARTnews 8.1.2025.

<sup>54</sup> Munnely, 2021.

<sup>55</sup> The Artist's Resale Right Regulations 2006 3(1).

<sup>56</sup> *Ibid.*, 3(2).

<sup>57</sup> *Ibid.*, 4.

<sup>58</sup> *Ibid.*, 7.

<sup>59</sup> *Ibid.*, 8.

<sup>60</sup> *Ibid.*, 7(3).

<sup>61</sup> *Ibid.*, 9.

that there is no agent of the seller, the agent of the buyer, or in case there is no agent of the buyer, the buyer, should be jointly and severally liable to pay the resale royalty.<sup>62</sup>

The World Intellectual Property Organization (WIPO) Berne Convention for the Protection of Literary and Artistic Works (the Berne Convention) holds a similar rule, as Article 14ter of the Berne Convention grants the author of a work or after the author's death, the persons or institutions authorized by national legislation, the *droit de suite* to an author's work, meaning that such person shall enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.

The art trade is also self-regulated by a number of industry regulations. For example, the British Art Market Federation (BAMF) has in place guidance on Anti-Money Laundering for UK Art Market Participants. The International Confederation of Art Dealers (CINOA), The International Association of Dealers in Ancient Art, the International Council of Museums (ICOM) and the Museums Association all have in place codes of ethics. These codes of ethics obligate the members of the associations to, for example, do everything in their power to cooperate in the return of artworks that have been illegally imported and of which the country of origin demands it. The codes of ethics also include rules on appropriate levels of due diligence, when acquiring or selling works of art.

### **3. Art market related crime**

#### **3.1 Financial crimes**

Money laundering is the action of disguising the illegal origin of the proceeds of crime, making them appear legitimate.<sup>63</sup> It encompasses both so-called criminal money management (as in criminals attempting to make cash appear legitimate) as well as any financial activity involving criminally tainted money. It further circumscribes all parties to a transaction, if the party knew or should have known that any aspect of the transaction is criminal.<sup>64</sup> For example, the Finnish Criminal Code (39-001/1889) defines money laundering as the act of receiving, using, converting, conveying, transferring, transmitting or possessing property obtained through an offence, proceeds of crime of property replacing them, in order to obtain benefit for himself or herself or

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<sup>62</sup> The Artist's Resale Right Regulations 2006 13.

<sup>63</sup> Council of Europe/European Court of Human Rights 2020, p. 566.

<sup>64</sup> Baranello 2021, p. 699.

for another person or to conceal or disguise the illegal origin of such proceeds or property, or in order to assist the perpetrator to evade the legal consequences of the offence or the concealing or disguising the nature, source, location or disposition of, or rights with respect to, property obtained through an offence, proceeds of crime or property replacing these, or assisting another person in such concealment or disguise.

Combatting money laundering not only effectively intervenes the facilitation of the underlying crime, but it also prevents the potential negative consequences money laundering has on macroeconomics, such as changes in money demand, risks to bank soundness and increased volatility of international capital flows and exchange rates due to unanticipated cross-border asset transfers.<sup>65</sup> Together with terrorism financing, it constitutes a challenge to the integrity of the EU financial system and economy. According to EUROPOL, 0.7 to 1.28 percent of the EU's annual gross domestic product is detected as being involved in suspect financial activity.<sup>66</sup>

There are three main steps to the process: placement, layering and integration.<sup>67</sup> First, the illegal funds are placed in multiple bank accounts or other financial institutions. Then the funds are layered by transferring them from various banks in various locations to conceal when and where the funds enter the financial system and the time and place, they will eventually leave. Then, during integration, the illegal funds are introduced into the legitimate economy and markets. Art has become a popular vehicle for money laundering due to its ability to be used in all three stages of laundering.<sup>68</sup>

Illicit funds laundered through the art market can be derived from various crimes, including corruption, embezzlement, drug trafficking, tax fraud, and other offences associated with the activities of organised criminal groups.<sup>69</sup> Funds can be laundered through the art market by evading formal financial instruments or by legitimising illicit cash by converting it into an asset that retains value and can be sold at a later stage.<sup>70</sup> Money laundering often involves the use of intermediaries, including natural and legal persons and arrangements, to conceal the beneficiary of the transactions. These intermediaries can be individuals, shell companies or non-profit organisations. They are used to hide the identity of the buyer or seller or to obscure the source of funds.<sup>71</sup> A common method is also the use of fictitious sales and fake auctions. In this process, a

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<sup>65</sup> Burroughs 2019, p. 1068.

<sup>66</sup> Council of Europe/European Court of Human Rights 2020, p. 566.

<sup>67</sup> FATF, 2018.

<sup>68</sup> Burroughs 2019, p. 1066.

<sup>69</sup> FATF 2023, p. 21.

<sup>70</sup> *Ibid*, p. 21–23.

<sup>71</sup> *Ibid*, p. 23–24.

launderer will put up an artwork for sale or auction, and an accomplice will buy the works using funds generated from predicate crimes. The funds are then received as transfers to the auctioneer's bank account and placed in the financial system.<sup>72</sup>

The variability of art pricing makes art especially vulnerable for over-, or under-pricing for the purpose of disguising illicit proceeds. Artworks can be subject to sharp escalations in prices, since value can suddenly be boosted by subjective intangibles such as personal taste. The task of customs official and law enforcement officers seeking to detect money laundering in cases, where money is being transferred by overpaying for a painting, is severely complicated. More-over the average customs official would struggle to differentiate an amateur painting from many contemporary high-value artworks.<sup>73</sup>

Most participants involved in the art market do not have connections to illicit activity. They operate in the market for legitimate reasons, weather for business interest or for their own enjoyment. Nevertheless, evidence shows, that criminals are using cultural objects for money laundering and terrorist financing.<sup>74</sup> Documents referred to as the Panama Papers – 11.5 million files from the Panamanian law firm Mossack Fonseca – leaked in 2016, initially to *Süddeutsche Zeitung*, a German newspaper, brought on display to the public the many ways offshore shell companies were used to conceal the ownership of art.<sup>75</sup> For example, the founder and former president of Banco Santos in Brazil, Edemar Cid Ferreira, who was convicted of crimes against the national financial system and money laundering, had reportedly accumulated a substantial art collection valued in tens of millions of dollars and including *Hannibal* by Jean-Michel Basquiat. The files also contain multiple examples of politically exposed persons (PEPs) using misappropriated funds to purchase art.<sup>76</sup>

Shell companies are used by individuals and companies for holding assets, making pooled investments, executing reverse mergers or facilitating transfers. In the art market shell companies are frequently used when purchasing or selling high-value art. However, shell companies can also be used as financial conduits for the transfer of funds and assets, when an individual wishes to conceal their identity, the source and control of assets or to move suspect

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<sup>72</sup> FATF 2023, p. 25.

<sup>73</sup> Munnely, 2020.

<sup>74</sup> FATF 2023, p. 5.

<sup>75</sup> The New York Times 14.2.2019.

<sup>76</sup> Hufnagel *et.al.* 2019, p. 134.

funds. Shell companies can provide this anonymity, since there is no requirement that beneficial owners be identified during the entity's formation.<sup>77</sup>

A 2020 U.S. Senate report showcased how art sales were used to avoid the sanctions placed on Russia by the United States in 2014 in response to Russia's invasion of Ukraine and annexation of Crimea. Specifically, purchases of high-value art were traced back to anonymous shell companies linked to sanctioned individuals Arkady and Boris Rotenberg, two Russian oligarchs. The Rotenbergs had continued actively participating in the U.S. art market by purchasing over \$ 18 million in art in the months following the imposition of sanctions. The shell companies linked to the Rotenbergs also transferred over \$ 120 million to Russia four days before being specifically named as sanctioned. It is valued that the Rotenberg-linked shell companies engaged in over \$ 91 million in transactions post-sanctions.<sup>78</sup>

## **3.2 The illicit trade of cultural goods**

### **3.2.1 Characteristics of the illicit art trade**

The illicit trade in cultural goods is the third most significant illegal trade, right after the trade of narcotics and arms.<sup>79</sup> Although the value of the illegal trade of cultural goods is difficult to assess, some estimates state that in up to 90 % of sales of antiquities, the goods have illicit origins. Other estimates have valued the illegal trade of cultural goods and antiquities to be as high as €2.5 - €5 billion yearly. UNESCO has stated that the black market in antiquities and cultural goods constitutes one of the most firmly rooted forms of international crimes in the world.<sup>80</sup>

The attractiveness of the illicit art market as a way to finance terrorism is due in large to the low risk of detection, the potential high margin, and the size of the licit and illicit markets, driven by an increased global demand from collectors, investors and museums. The main crimes associated with trafficking of cultural goods are theft and robbery, looting (i.e., the illicit removal on ancient relics from archaeological sites, buildings and monuments) and forgery of cultural goods. Related crimes include fraud, disposal of stolen goods, smuggling and corruption.<sup>81</sup>

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<sup>77</sup> U.S. Senate 2020, p. 40.

<sup>78</sup> *Ibid.*, p. 1.

<sup>79</sup> European Parliament 2015, H.

<sup>80</sup> European Commission 2017.

<sup>81</sup> EU COM(2022) 800.

Illicit actors benefit from the art trade, as, unlike arms and narcotics, which are usually sold on the black market, cultural objects can be more visibly advertised and sold due to the difficulty in proving the illicit nature of a particular acquisition or object. Cultural goods rarely come to market with a complete ownership history, but rather the items have provenance, meaning a record of the object's prior life and its cultural and social significance, such as exhibition history. Provenance documents can, however, be falsified.<sup>82</sup>

One of the most infamous cases of forging provenance for artworks in Europe is the case of Italian art dealer Giacomo Medici. The Swiss police discovered that Medici had been storing around 3 000 antiquities in Geneva freeport, that had been looted in Italy and smuggled into Switzerland. Medici had used the privacy of the Geneva freeport to establish false provenance for the stolen objects. He would then obtain legal Swiss export documents for the items and would then sell them on legitimate art markets in Europe and the United States. Medici would then organise for 'straw buyers' to repurchase the items on his behalf and send them back to Switzerland.<sup>83</sup>

Another case of forging provenance for artworks is the case of John Myatt, an artist, who in the late 1980s began producing forgeries in the style of Braque, Matisse, Giacometti and Le Corbusier. By creating convincing provenance for the artworks, he managed to pass the paintings off as authentic works by the artists, gaining access to major archives, such as the Victoria and Albert Museum and Tate. He would alter the archives to create lineage for his own forgeries and implant the archives with false records, such as receipts and certificates of authenticity, and then consign the forgeries for sale through auction houses with verifiable heritage.<sup>84</sup> A similar case was the case of Wolfgang Beltracchi, who, in the 2000s, together with his wife Helene, sold forged works purporting to be by Max Ernst, Heinrich Campendonk, Fernand Léger and Kees van Dongen. He would claim that the works formed part of two fictitious 1920s collections – the *Knops Sammlung* and the *Werner Jägers Sammlung*. The paintings were marked with stamps from the collections, and Beltracchi would create convincing black and white photographs featuring the paintings and his wife, posing in her grandmother's period dress.<sup>85</sup>

Cultural objects are significantly more at risk of destruction in crisis and conflict zones. This has been illustrated especially in the Middle East, in countries such as Syria and Iraq and more recently Ukraine.<sup>86</sup> The higher risk has also been demonstrated throughout history, perhaps most

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<sup>82</sup> Munnelly, 2021.

<sup>83</sup> *Ibid.*, p. 4.

<sup>84</sup> The New York Times 18.7.1999.

<sup>85</sup> *Luxmoore-May v Messenger May Baverstock* [1990] AII ER 1067, CA.

<sup>86</sup> EU COM(2022) 800.

notably during World War II and the Nazi lootings of cultural property. EU has set out specific regulations, Regulation 1332/2013 and Regulation 36/2012 concerning restrictive measures in view of the situation in Syria and Regulation 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq, restricting the movement of cultural goods from and to either of the two States. In December 1998, 44 government participating in the Washington Conference on Holocaust-Era Assets endorsed the Washington Conference Principles on Nazi-Confiscated Art. The EU supports the principles, and majority of signatory states are Member States.

### 3.2.2 International regulations protecting cultural goods

The illicit trade and movement of cultural goods have been regulated by two international agreements: the UNESCO 1970 Convention, ratified by 147 states and the Hague 1954 Convention, ratified by 138 states.

The UNESCO 1970 Convention requires signatory states to establish national services, that are effective to carry out the formation of draft laws and regulations to secure the protection of cultural heritage, to establish and to keep up to date a national inventory of protected property, to organize the supervision of archaeological excavations that would ensure the preservation *in situ* of certain cultural property and to establish rules for curators, collectors and antique dealers to conform with the ethical principles set forth in the convention.<sup>87</sup> Article 6 of the Convention also sets the obligation for signatory states to introduce a certificate in which the exporting state would specify that the export of the cultural property in question is authorized. Exportation of cultural property without the certificate should be prohibited.

Due to its non-binding nature, the 1970 Convention has not been effective. The free choice to codify the Convention has created a division between “source” and “market” nations, meaning nations losing cultural objects have been more eager to ratify the Convention. Even in the ratifying States, codifying has been slow, often only implementing parts of the Convention.<sup>88</sup>

The protection of cultural property in times of conflict has been regulated in the Hague 1954 Convention. The Convention was established during the aftermath of the World Wars, recognizing, that cultural property had suffered grave damage during the armed conflicts, and that due to the developments in the technique of warfare, the danger of destruction is even

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<sup>87</sup> UNESCO 1970 Article 5.

<sup>88</sup> Freeman 2025.

increased. UNESCO stated that “damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind” and that “the preservation of the cultural heritage is of great importance for all peoples of the world and that it is important that this heritage should receive international protection”.<sup>89</sup>

The convention regards cultural property of signatory states both in time of peace and in conflict, requiring states to take action in order to prohibit and prevent any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property.<sup>90</sup> Article 7 of the Convention requires signatory states to introduce to their militaries regulations or instructions provisions to ensure the protection of cultural heritage. Article 10 of the Convention states, that cultural property under special protection should be marked with a distinctive emblem and should be open to international control during armed conflict. The transport of cultural property should take place under international supervision<sup>91</sup> and should be immune from seizure, placing in price, or capture during the transfer.<sup>92</sup> The first protocol to the Hague 1954 Convention further protects cultural property from illicit exportation. According to the first protocol each Signatory State should prevent the exportation of cultural property from an occupied territory<sup>93</sup> as well as take into custody any such cultural property imported into its territory.<sup>94</sup> The cultural property should then be returned to the country of origin at the close of hostilities.<sup>95</sup>

The Hague 1954 Convention prohibits signatory states from using cultural property and its immediate surroundings for purposes which are likely to expose it to destruction or damage in the event of armed conflict as well as from refraining from any act of hostility, directed against such property. Signatory states should also refrain from theft, pillage, misappropriation or acts or reprisals directed against cultural property.<sup>96</sup> The Convention also requires for signatory states in occupation of the whole or part of the territory of another signatory state to safeguard and preserve its cultural property.<sup>97</sup>

The European Union set a sanction for Iraq in 2003 (Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq

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<sup>89</sup> Hague 1954 Convention.

<sup>90</sup> *Ibid.* Article 4.

<sup>91</sup> *Ibid.* Article 12.

<sup>92</sup> *Ibid.* Article 14.

<sup>93</sup> 1st protocol to Hague 1954 para 1.

<sup>94</sup> *Ibid.* para 2.

<sup>95</sup> *Ibid.* para 3.

<sup>96</sup> Hague 1954 Article 4.

<sup>97</sup> *Ibid.* Article 5.

(EC 1210/2003)), which prohibits the import, introduction, export, removal and dealing of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific and religious importance, if they have been illegally removed from locations in Iraq and if the cultural object in question was exported after 6 August 1990.<sup>98</sup> In April 2015, the European Parliament set out a motion for action against the destruction of cultural sites perpetrated by Iraqi and Syrian Islamic State extremist groups ISIS and Da'esh. The groups have been linked to the destruction of numerous archaeological, religious and cultural sites in Syria and Iraq. Terrorist involvement in the looting of cultural objects has been described as characterized by a dual-exploitive approach, as removing and trafficking cultural heritage both supports terrorist ideologies as well as generates income. For example, for ISIS, the looting and sale of antiquities not only generated funds but also served to eliminate vestiges of the pre-Islamic period in Mesopotamia.<sup>99</sup>

A country's cultural heritage serves to form a sort of shared memory and knowledge and tells stories of developments of civilisations. Crimes against cultural goods can have a devastating impact on a country's cultural heritage, destroying parts of a collective memory and human testimonies of history.<sup>100</sup> Attacks against cultural heritage have been described by UNESCO as 'cultural cleansing'.<sup>101</sup> UNESCO has also noted that some acts of destruction of the cultural heritage could be considered as crimes against humanity, due to the important part cultural heritage plays as a "component of the cultural identity of communities, groups and individuals, and of social cohesion, so that its intentional destruction may have adverse consequences on human dignity and human rights."<sup>102</sup> Crimes against cultural heritage have been recognized as war crimes in the International Criminal Court for the first time in 2016, for the bench mark case *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (ICC-01/12.01/15). Al Mahdi was found guilty and sentenced to a 9-year imprisonment for acting as a co-perpetrator of the war crime consisting of intentionally directing attacks against religious and historic buildings in Timbuktu, Mali, in June and July 2012.

### 3.2.3 Targeted solutions and data bases

In the EU Action Plan against Trafficking in Cultural Goods, pressure was placed on participants of the cultural goods market, such as collectors and dealers, to have well established awareness

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<sup>98</sup> EC 1210/2003, Article 3.

<sup>99</sup> Munnelly 2021.

<sup>100</sup> EU COM(2022) 800.

<sup>101</sup> European Parliament, 2025. A.

<sup>102</sup> *Ibid.* C-D.

on the applicable legislation and other non-legislative tools in order to prevent and detect cultural goods trafficking.<sup>103</sup> Some of the Member States have implemented national legislation in order to combat illicit trafficking of cultural goods. For example, Germany and France have required export certificates from the source country to allow the entry of cultural goods into their territory, whereas Austria and the Netherlands have prohibited the importation of cultural goods that have been illegally exported from their countries of origin.<sup>104</sup>

Art dealers play a crucial role in combatting the trafficking of illicit cultural goods. In 2021, the State Parties of the UNESCO 1970 Convention, after an initial assessment of the range of possible tools to strengthen the fight against illicit trafficking of cultural goods, decided to revise the International Code of Ethics for Dealers in Cultural Property, adopted in 1999. The Code was revised as an answer to challenges arisen since the adoption, such as online sales.<sup>105</sup> The Code of Ethics is based on voluntary compliance, and it is aimed at professional traders in cultural property. The Code contains principles of professional practice that aim to distinguish cultural property being illicitly traded.<sup>106</sup> Although voluntary, and not accompanied by a legal sanction in case on non-compliance, State Parties are encouraged to ensure that art dealers abide by the Code, by imposing appropriate compulsory measures as well as by offering incentives to those dealers who do undertake to abide by its provisions, such as tax concessions.<sup>107</sup> The appropriate abidance of the Code of Ethics may assist, when examining, whether a possessor of a stolen good exercised due diligence when acquiring it.

The European External Action Service (EEAS) supports a global response to cultural goods trafficking, incorporating the protection of cultural heritage into EU's external action. The EEAS works in strengthening collaboration outside of EU's borders. EU has also incorporated the protection of cultural goods into bilateral agreements, such as the Partnership Priorities with Egypt, or the Europe Latin America Programme of Assistance against Transnational Organised Crime (El PacCto).<sup>108</sup> EU has also provided financial support for cultural heritage protection in source and transit countries of cultural goods trafficking such as Mali, Tunisia, Lebanon, Iraq, Syria, Libya and Yemen.<sup>109</sup>

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<sup>103</sup> EU COM(2022) 800.

<sup>104</sup> The European Commission. [https://ec.europa.eu/commission/presscorner/detail/et/memo\\_17\\_1954](https://ec.europa.eu/commission/presscorner/detail/et/memo_17_1954) (23.2.2026).

<sup>105</sup> UNESCO C70/21/9.SC/9 para 3.

<sup>106</sup> *Ibid.* para 7.

<sup>107</sup> *Ibid.* para 10.

<sup>108</sup> EU COM(2022) 800.

<sup>109</sup> *Ibid.*

The Cultural Heritage at Risk Database (CHARD) is a foundation, that aims to protect artworks and cultural heritage at conflict and crisis zones, that are vulnerable to looting and illicit trafficking. CHARD functions as a due diligence database, the Art Loss Register, that registers object in museums, warehouses and sites in conflict zones to detect them if they appear on the market or as part of law enforcement investigations. The Art Loss Register currently contains 450,000 objects. CHARD also supports museum and archives with inventories.<sup>110</sup>

EUROPOL has been effective in organizing operations combatting trafficking of cultural goods. In 2017, operations Athena and Pandora II lead to the seizing of over 41 000 artefacts and 53 arrests. In 2018, operation Sardica lead to the seizing of more than 30 000 artefacts and 180 000 € in cash as well as 13 arrests. In 2020, operation Pandora V carried out tens of thousands of checks and controls in various airports, ports, border crossing points, auction houses, museums and private residences throughout Europe, leading to the seizing of 56 400 cultural goods and 67 arrests.

INTERPOL also works in supporting its member countries in tackling offences against cultural property by offering investigative support and coordination.<sup>111</sup> INTERPOL keeps data of the number of objects stolen in contracting countries. In 2020 alone, the total amount of stolen objects was 35,749<sup>112</sup>, and the total of objects seized by INTERPOL was 854,742, with more than half of them seized in Europe.<sup>113</sup> INTERPOL upkeep a public database, the Stolen Work of Art Database, which lists reportedly stolen artworks and operates on the basis, that people are able to identify stolen artworks and leave hints of their movements to competent authorities. The database holds records for more than 52,000 objects from 134 countries.<sup>114</sup>

#### **4. EU Customs and the legal vulnerabilities of the art storage sector**

As part of the establishment of the, then European Economic Community, the Member States were obliged, by the end of the first stage of the establishment, to abolish customs duties on exportation and charges with equivalent effect between themselves.<sup>115</sup> Article 36 of the Treaty establishing the European Economic Community (the Treaty of Rome) states, that “the provisions of Articles 30 to 34 inclusive shall not be an obstacle to prohibitions or restriction in respect of

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<sup>110</sup> The Cultural Heritage At Risk Database (CHARD Foundation). <https://www.chardfoundation.org> (23.2.2026).

<sup>111</sup> INTERPOL 2020, p. 4.

<sup>112</sup> *Ibid.* p. 13.

<sup>113</sup> *Ibid.* p. 15.

<sup>114</sup> *Ibid.* p. 7.

<sup>115</sup> Treaty of Rome Article 16.

importation, exportation or transit which are justified on grounds of ... the protection of national treasures of artistic, historical or archaeological value". Articles 30 to 34 of the Treaty prohibit any quantitative restrictions on importation, or measure with equivalent effect, between Member States. The prohibitions and restrictions are, however, clearly distinguished from customs duties and assimilated charges.<sup>116</sup>

In December 1968, during the early years of Italy's Union membership, the European Court of Justice found, concerning the case of *Commission of the European Communities v Italian Republic*, that Italy had failed to oblige with Article 16 of the Treaty of Rome, by continuing to levy the progressive tax provided by the Italian code on exports to other member states of the community for objects of artistic, historic, archaeological, or ethnographic interest. The defendant in the case argued, that the articles subject to the Italian code could not be considered goods as according to Article 16 of the Treaty. The Court of Justice found, that under Article 9 of the Treaty of Rome, all trade in goods should be covered, and that goods should be understood as any product which can be valued in money and which, as such, could form the subject of commercial transactions.<sup>117</sup> It was ruled, that the imposed taxes on exports of cultural goods had more of an effect equivalent to customs duties on exports, rather than the restrictive measures permitted by Article 36 of the Treaty. The Commission further argued that the levy of a charge on cultural goods disturbed the functioning of the common market, and that an alternative application of prohibitions or export restrictions should be favoured in order to protect national treasures in accordance with Article 36.

Council Regulation (EEC) No 2913/92 establishing the Community Customs Code establishes the customs rules for trade between the Union and third countries.<sup>118</sup> The Community Customs Code was laid down in 2008 with Regulation (EC) No 450/2008 laying down the Community Customs Code and recast for the interests of clarity, in October 2013 by Regulation (EU) No 952/2013 laying down the Union Customs Code (UCC). The UCC applies uniformly throughout the customs territory of the Union.<sup>119</sup>

Article 46 of the UCC grants Member States' customs authorities the right to carry out any customs controls they deem necessary. This may consist of examining goods, taking samples, verifying the accuracy and completeness of the information given in a declaration or notification and the existence, authenticity, accuracy and validity of documents. Article 134 states that goods

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<sup>116</sup> ECLI:EU:C:1968:51.

<sup>117</sup> *Ibid.*

<sup>118</sup> (EEC) No 2913/92 Article 1.

<sup>119</sup> UCC Article 1.

brought into the Union's customs territory should be subject to customs supervision and may be subject to customs controls from the time of their entry. Where applicable, such goods may be subject to prohibitions and restrictions on grounds of, for example, the protection of national treasures possessing artistic, historic or archaeological value. The same applies to goods to be taken out of the Union's customs territory.<sup>120</sup>

Section 3 of the Union Custom Code (UCC) regulates the use of free zones. According to Article 243 of the UCC, Member States may designate part of the customs territory of EU as free zones. These free zones need to be communicated to the European Commission. Free zones are enclosed areas, originally intended as spaces to store merchandise in transit, where non-Union goods can be introduced free of import duty, taxes and customs. Goods brought into the free zones may later be exported or brought into the customs territory of the Union.<sup>121</sup>

Free zones may also be used for the storage, moving, usage, processing or consummation of such goods.<sup>122</sup> Once the goods are released for free circulation and they enter the Union's customs territory, all taxes and import duties will be paid as usual. Because the main objective for free zones is to increase exports, most free zones are exempt from national import and export duties, or they formally operate outside the customs area of their host country. Governments may add perks to attract more export, such as tax, regulatory, administrative and financial incentives.<sup>123</sup>

The UCC also allows for commercial activity within free zones,<sup>124</sup> meaning that goods may be traded in the free zones without having to pay customs duties. Non-Union goods may be released for free circulation or be placed under the inward processing, temporary admission or end-use procedure, while in free zones. Non-Union goods may be placed under temporary admission procedure, given that they are used for specific purposes (e.g. exhibitions) and re-exported in an unaltered state within a specified period.<sup>125</sup> The length of the temporary admission should be long enough for the objective of authorized use to be achieved, however, unless otherwise provided, for a maximum duration of 24 months, or 10 years, where, in exceptional circumstances, the authorized use cannot be achieved within 24 months.<sup>126</sup> When placed under the temporary

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<sup>120</sup> UCC Article 267.

<sup>121</sup> Taxation and Customs Union. [https://taxation-customs.ec.europa.eu/customs/free-zones\\_en](https://taxation-customs.ec.europa.eu/customs/free-zones_en) (23.2.2026).

<sup>122</sup> Korver 2018, p. 12.

<sup>123</sup> *Ibid.*

<sup>124</sup> UCC Article 244.

<sup>125</sup> *Ibid.* Article 162

<sup>126</sup> *Ibid.* Article 251.

admission procedure, 3 % of the amount of import duty which would have been payable on the goods had they been released for free circulation, shall be set.<sup>127</sup>

Freeports are large, safeguarded warehouses, located in free zones, often near airports or marine ports, some of which are specifically designed to facilitate the storage and trade of valuable artifacts, such as artworks, vintage wines and collector cars. Freeports designated for the storage of artworks offer climate and humidity-controlled storage rooms and offices where clients can view, buy and sell art as well as a wide range of related services, such as authentication, restoration, framing, transport and logistics.<sup>128</sup> The current model of freeports often even features luxurious lobbies that are available to clients for temporary exhibitions of private collections and high-society events.<sup>129</sup> The most well-known freeports catered for investment art are located in Geneva, Luxembourg, Singapore, Beijing, Monaco and Delaware. Beside the Luxembourg High Security Hub (previously known as Le Freeport) in Luxembourg, famous freeports within Union territory include Kunsttrans in Vienna and Hasenkamp in Cologne.<sup>130</sup>

In the EU, there are, however, far more customs warehouses than there are freeports. Customs warehouses, or bonded warehouses, operate on a similar basis as freeports, but they do not need to be located in free zones. The major difference between freeports and customs warehouses is that customs authorization is required for the storage of goods in a private customs warehouse. Customs warehouses can provide the same advantages as freeports, including indirect tax-deferral and secrecy.<sup>131</sup>

Article 211 of the UCC declares, that an authorization from the customs authorities should be required to the operation of storage facilities for the customs warehousing of goods. This is not required, when the storage facility operator is the customs authority itself. Customs warehouses may either be used by any person for the customs warehousing of goods (public customs warehouses), or for the storage of goods by the holder of an authorization for customs warehousing (private customs warehouse). Goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse; however, such removal requires the authorization by the customs authorities.<sup>132</sup>

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<sup>127</sup> UCC Article 252.

<sup>128</sup> Korver 2018, p. 13.

<sup>129</sup> WocomoDOCS, 2022.

<sup>130</sup> Korver 2018, p. 5.

<sup>131</sup> *Ibid.* p. 13.

<sup>132</sup> UCC Article 240.

All persons carrying on an activity involving the storage of goods, or the sale or purchase of goods in free zones, are required to keep appropriate records in a form approved by customs authorities. The records have to contain the information and the particulars necessary to enable the customs authorities to supervise the procedure, in particular with regard to identification of the goods placed under the procedure.<sup>133</sup> Goods placed under a special procedure in transit or in a free zone may not be moved in the Union's customs territory.<sup>134</sup> They may, however, undergo usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for resale.<sup>135</sup>

According to Article 237 of the UCC, non-Union goods may be stored in the customs territory of the Union under a storage procedure (i.e. a customs warehouse or free zone) without being subject to import duty or other charges. There is also no time limit for how long goods may be held under a storage procedure. A time-limit may only be set when a long-term storage could pose a threat to human, animal or plant health or to the environment.<sup>136</sup> It is hard to imagine a case, where this could be applied to the storage of art.

Although free zones and customs warehouses were originally intended for storing goods in transit, artefacts may be stored in them for years and sometimes even permanently. There is not a time limit for how long a good can be in transit, which makes it possible for goods to be stored and gain value for an indefinite period and eventually even be sold forward without ever having to pay import or customs duties or capital gains tax.<sup>137</sup> This brings alongside a separate issue; because the sales tax is realized as soon as the artwork leaves the freeport, owners of art are unwilling to loan the pieces to museums and art shows. This has led to culturally significant pieces being hidden from the public for decades at the time.<sup>138</sup> It is estimated that millions of artworks are currently being held in storage and have not left the facilities in decades. For example, the *Salvador Mundi* is believed to be stored in the Geneva Freeport.

Freeports also play a role in financial crime within the art market, as through them, even legally acquired goods can be used for sanctions evasion and tax evasion.<sup>139</sup> The Bouvier Affair refers to a number of international lawsuits that began in 2015. The lawsuits were filed against Swiss freeport owner, Yves Bouvier, for allegedly defrauding numerous of his clients by misrepresenting

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<sup>133</sup> UCC Article 214.

<sup>134</sup> *Ibid.* Article 219.

<sup>135</sup> *Ibid.* Article 220.

<sup>136</sup> *Ibid.* Article 238.

<sup>137</sup> Korver 2018, p. 14.

<sup>138</sup> WocomoDOCS, 2022.

<sup>139</sup> Abrahamian, 2025.

the original cost of artworks, subsequently overcharging them. The affair has played out in courts in Monaco, Switzerland, France, the US, Hong Kong and Singapore.<sup>140</sup> The most notable of Bouvier's alleged victims was Russian oligarch Dmitry Rybolovlev, who, after finding out that Bouvier had overcharged him \$24.5 million for a Modigliani painting, went through all the pieces he had bought from Bouvier and concluded that Bouvier had overcharged him for one billion dollars in total.<sup>141</sup>

In 2016 the, at the time, Le Freeport, fell under investigation, after one of Pablo Picasso's daughters, Catherine Hutin-Blay, declared some of the artist's work had been stolen. Two of Picasso's works, that had supposedly been in storage with a specialist firm in Gennevilliers, had been restored and mounted by a restorer in January 2015 at the request of an intermediary in Geneva. Both paintings had been sold to Russian oligarch, Dmitry Rybolovlev in 2013 for 27 million euros, by Yves Bouvier. Rybolovlev has claimed, that he was acting in good faith. The paintings had allegedly been stolen with the assistance of Bouvier's business partner and former president of the board of directors at Le Freeport, Olivier Thomas, who had been commissioned by Hutin-Blay to empty the Mougins property, where the Picasso paintings had originally been stored, and to transport them to Gennevilliers.<sup>142</sup>

The lack of regulation and surveillance also poses a counterfeit threat. Because art trade within the freeports is outside of supervision and customs, and the knowledge of the true origin of the work and the identity of the original supplier can often be missing, it can be hard to verify artworks.<sup>143</sup> A 2018 OECD study found that establishing an additional freeport within an economy was associated with an average 5.9 % increase in the value of counterfeit exports from the host economy between 2011-2013.<sup>144</sup> A separate report from OECD and the European Union Intellectual Property Office (EUIPO) from 2019 found that the share of fake goods from economies hosting the twenty biggest free trade zones is twice as big as from economies that do not host free trade zones. The report also stated that the presence of free trade zones is a particularly strong driver for the trade in counterfeit goods in economies with weak governance, high corruption levels and a lack of intellectual property rights enforcement.<sup>145</sup>

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<sup>140</sup> Korver 2018, p. 16.

<sup>141</sup> Abrahamian 2025.

<sup>142</sup> Luxembourg Times, 14 July 2016.

<sup>143</sup> European Commission 2000, p. 12.

<sup>144</sup> OECD/EUIPO 2018, p. 13.

<sup>145</sup> OECD/EUIPO 2019, p. 16.

The European Commission's 2017 Supranational Risk Assessment Report (SNRA), that identified products and services vulnerable to money laundering, listed freeports as a high-risk service.<sup>146</sup> According to the SNRA, freeports are 'significantly exposed to money laundering risk due to limitations in monitoring capacities for obliged entities' as non-regulated storage facilities.<sup>147</sup> Freeports were mentioned again in SNRAs 2019 rapport, where freeports were listed as part of a 43-product list with a heightened risk for money laundering, due to the advantages they offer from a customs and taxation perspective. It was also noted, that although the risk assessed is applicable to all free trade zones, it was exacerbated in the case of high-value goods (e.g., art) held in freeports.<sup>148</sup>

Prior to new legislation, freeports have also been exempted from KYC (know your customer) obligations. This meant, that since it is common practice to invest in art through shell companies and trustees, art could be stored in free ports without the operator knowing who the artwork ultimately belonged to.<sup>149</sup> Since 2014, the United States had imposed numerous economic sanctions towards Russia. In 2019 it was revealed that Hasenkamp in Germany was holding a number of paintings purchased in the US by the Rotenberg family post-sanctioning, through multiple layers of shell companies.<sup>150</sup> One of the artworks purchased by the Rotenbergs was *La Poitrine* by René Magritte, bought for \$ 7.5 million in May 2014 through a private art dealer. *La Poitrine* was shipped to Hasenkamp and stored under the company name Highland Business - no individuals were named throughout the process. The paintings also included Gustav Klimt's *Water Serpents II*, purchased for \$ 183 million at auction in 2013. In August 2019 all art stored under the account was shipped to Moscow.<sup>151</sup>

In January 2024 the United Kingdom's National Crime Agency (NCA) set out an Amber Alert for financial sanctions evasion, money laundering and cultural property trafficking through the art storage sector. The alert included purpose-built warehouses, auction houses, art dealerships, galleries, museums and freeports. The Amber Alert urged art-storage professionals to conduct ongoing due diligence checks at regular intervals, in addition to the initial onboarding, in order to be able to identify within their business any suspicious activity relating to financial sanctions

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<sup>146</sup> Saleeby 2019.

<sup>147</sup> European Commission 2017, p. 4.

<sup>148</sup> European Commission 2022, p. 22.

<sup>149</sup> WocomODOCS, 2022.

<sup>150</sup> US Senate 2023, p. 7.

<sup>151</sup> FATF 2020, p. 7.

evasion, money laundering, cultural property trafficking, or other forms of criminality. Any concerns identified should be reported through the appropriate channels.<sup>152</sup>

## 5. Recent developments in art market regulation

### 5.1 Anti-Money Laundering obligations

#### 5.1.1 The development of EU Anti-Money Laundering Directives

EU's first Anti-Money Laundering Directive (AMLD) was adopted in 1991, following the recommendations of the Financial Action Task Force (FATF). The first AMLD was only applicable to financial institutions and was focused on combating the laundering of proceeds from drug trafficking and only targeted cash transactions. Although the Directive significantly lowered the risk of money laundering through financial services, the risk still remained in certain sectors, such as private banking and institutional investment, especially through brokers.<sup>153</sup> The following AMLDs have broadened the scope to involve a wider range of professions – auditors, accountants, tax advisors, notaries and lawyers, real estate agents, dealers in high values, casinos – as well as the purposes for laundering, now encompassing terrorist financing and tax crimes. Furthermore, the importance of supervision of sanctioning was raised with the Fourth AMLD.<sup>154</sup>

The Fourth AMLD also introduced the concept of beneficial ownership in order to increase the transparency of complex corporate structures and trusts.<sup>155</sup> Beneficial owners are natural persons who ultimately own or control a customer and/or the person on whose behalf a transaction is being conducted and those persons who exercise ultimate effective control over a legal person or arrangement.<sup>156</sup> Beneficial owner always refers to a natural person, and never a legal person or a legal arrangement. More than one natural person can be an ultimate beneficial owner of a given legal entity or arrangement.<sup>157</sup>

Understanding the concept of the beneficial ownership requires understanding of ownership and control. Beneficial ownership is determined by factors such as the number of shares that a

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<sup>152</sup> NCA 2024, p. 4-5.

<sup>153</sup> European Commission 2017, p. 4.

<sup>154</sup> Council of Europe/European Court of Human Rights 2020, p. 566-567.

<sup>155</sup> *Ibid.*

<sup>156</sup> FATF 2003, p. 15.

<sup>157</sup> Berkhout *et.al.* 2022, p. 5.

natural person may hold in a legal person. For practical purposes countries often set a threshold in place for identifying beneficial owners regarding ownership levels.<sup>158</sup> The EU standard requirements for beneficial owners are 25 % ownership of the company shares either directly or indirectly through another company, 25 % of the voting rights in the company directly or indirectly through another company or that the person exercises actual control over the company on other grounds.<sup>159</sup> Higher-risk situations might warrant a lower threshold or even no threshold in order to identify more potential beneficial owners.<sup>160</sup> Control does therefore not necessarily need to be based on ownership but could be based on contracts or other facts.

In 2003, the FATF noted increasing use of complicated money laundering techniques, such as the use of legal persons to disguise the true ownership and control of illegal proceeds.<sup>161</sup> The goal of the due diligence-process is hence to figure out who is the owner of the actual interest behind legal formalities. The capability of tracing the beneficial owner is key to overcoming both the layering and the placement stage of money laundering activities.<sup>162</sup>

The due diligence-process also aims to figure out, whether the contracting corporate structure includes any PEPs. PEPs are individuals who are or have been entrusted with prominent public functions in foreign countries, for example Heads of State or of government. PEPs could also be senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations or important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves.<sup>163</sup>

The AMLDs impose a dual responsibility on actors in the financial sector. Those obliged by the directives, are responsible, on one hand, to carry out customer due diligence to verify the identity of customers and beneficial owners in order to gain information and to monitor their business relationships. On the other hand, they have the responsibility to report any suspicious transactions they may identify. National AML supervisors ensure compliance with these requirements. Suspicious transactions are also reported to Financial Intelligence Units (FIUs), who carry the responsibility to receive and analyse information. FIUs also form analysis to law

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<sup>158</sup> Berkhout *et.al.* 2022, p. 32.

<sup>159</sup> Patentti- ja rekisterihallitus.

[https://www.prh.fi/en/companiesandorganisations/beneficial\\_owner\\_details/who\\_is\\_a\\_beneficial\\_owner.html](https://www.prh.fi/en/companiesandorganisations/beneficial_owner_details/who_is_a_beneficial_owner.html) (23.2.2026).

<sup>160</sup> Berkhout *et.al.* 2022, p. 33.

<sup>161</sup> FATF 2003, p. 2.

<sup>162</sup> Siclari 2016, p. 27.

<sup>163</sup> FATF 2003, p. 17.

enforcement and tax authorities for further investigations and prosecution, and they are able to order temporary freezing of transactions.<sup>164</sup>

### 5.1.2 The Fifth Anti-Money Laundering Directive

Directive 2018/843 amending Directive 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 (AMLD5) was adopted in January 2020 as an answer to emerging new trends regarding the way terrorist groups finance and conduct their operations. The Parliament and the Council noted that certain modern technology services had become increasingly popular as alternative financial systems, whereas they remained outside the scope of Union law or benefitted from exemptions from legal requirements. Apart from targeting the art market, the AMLD5 also targets providers engaged in exchange services between virtual currencies and fiat currencies as well as custodian wallet providers.

The FATF found in 2020, that trade-based money laundering, i.e. under- and over-invoicing, phantom shipments and other falsification of the value or quantity of a shipment were still commonly used techniques in the art trade.<sup>165</sup> Since the art market serves a global clientele, national regulations have not been adequate in investigating and prosecuting financial crimes connected to the art market.<sup>166</sup> The Commission also addressed the rapidly growing high-end market and the physical expansion of luxury storage spaces, suggesting that freeports were “establishing themselves as new players in the global system of tax avoidance and crime”.<sup>167</sup> Freeports had formerly come under scrutiny in national legislation, for example in Luxembourg, where in 2015 licensed freeport operators were brought under national anti-money laundering law after a national risk assessment.<sup>168</sup>

The art market was explicitly brought within the scope of EU anti-money laundering regulation for the first time in AMLD5, following the Commission’s concern over its exploitation in emerging terrorist financing strategies. According to the Commission, a lack of regulation in certain fields could no longer be justified, but further measures were necessary in order to ensure transparency

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<sup>164</sup> FATF 2003, p. 17.

<sup>165</sup> FATF 2020.

<sup>166</sup> Burroughs 2019, p. 1063.

<sup>167</sup> The Commission 2022, p. 12.

<sup>168</sup> Korver 2018, p. 5.

of financial transactions of corporate and legal entities, as well as trusts and legal arrangements that have a similar structure or function of a trust.<sup>169</sup>

The most important amendment in relation the art market in AMLD5 is Article 1, that amends Article 2 of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing (AMLD4), that lists those, obliged to follow the Directive. To the list was added:

- (1) persons trading or acting as intermediaries in the trade of works of art, including when this is carried out by art galleries and auction houses, where the value of the transaction or a series of transactions amounts to € 10 000 or more; and
- (2) persons storing, trading or acting as intermediaries in the trade of works of art when this is carried out by free ports, where the value of the transaction or a series of linked transactions amount to EUR 10 000 or more.

This means, that both art dealers – including auction houses and galleries – and freeport operators became obliged to comply with the EU AMLD and are therefore required to report suspicious transactions to financial intelligence units (FIUs) and carry out client due diligence research. Art market actors are now required to identify anyone purchasing a work of art worth € 10,000 or more, regardless of payment method.

The due diligence requirements obligate sellers to identify the source of their client's wealth in high-risk transactions (i.e. suspicious transactions involving high risk countries).<sup>170</sup> Customer due diligence rules should include identifying the customer, identifying the beneficial owner, obtaining information on the purpose and intended nature of the business relationship as well as conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship.<sup>171</sup> In relation to PEPs, in addition to performing usual due diligence measures, operators should have appropriate management systems to determine whether a customer is a PEP, obtain senior management approval for establishing business relationships with a PEP, take reasonable measures to establish the source

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<sup>169</sup> EU 2018/843 (2).

<sup>170</sup> Saleeby 2019.

<sup>171</sup> AMLD4 Article 13.

of wealth and source of funds and conduct enhanced ongoing monitoring of the business relationship.<sup>172</sup>

Article 1 of the AMLD5 also replaced paragraph 2 of Article 18 of the AMLD4, stating that Member States should require obliged entities to examine, as far as reasonably possible, the background and purpose of all transactions that are either complex, unusually large, conducted in an unusual pattern or they do not have an apparent economic or lawful purpose. The degree and nature of monitoring the business relationship is required to increase in order to determine whether those transactions or activities appear suspicious.

Article 13 of Directive states that obliged entities should, when conducting customer due diligence, adopt a risk-based approach. This means, that entities may determine the extent of due diligence measures on a risk-sensitive basis. According to Annex I of the Directive, when determining to what extent to apply customer due diligence measures in accordance with Article 13, entities should consider at least the purpose of an account or relationship, the level of assets to be deposited by the customer or the size of transactions undertaken and the regularity or duration of the business relationship.

Where an obliged entity identifies areas of lower risk, Member States may allow simplified customer due diligence measures.<sup>173</sup> When dealing with natural persons or legal entities established in the third countries identified by the Commission as high-risk third countries, as well as in other cases of higher risk that are identified by Member States or obliged entities, Member States should require enhanced due diligence measures to manage and mitigate those risks appropriately.<sup>174</sup>

Member States should ensure that the obliged entities have in place policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified at the level of the Union, the Member States and the obliged entities. The policies, controls and procedures should be proportionate to the nature and the size of the obliged entity.<sup>175</sup> A smaller gallery, who mainly sells the works of new artists, and occasional works for over € 10 000, will have different policies, controls and procedures in place, than a major auction house.

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<sup>172</sup> AMLD4 Article 20.

<sup>173</sup> *Ibid.* Article 15.

<sup>174</sup> AMLD5 (12).

<sup>175</sup> AMLD4 Article 8.

Article 30(1) and (3) of AMLD4 provides, that Member States should ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held and that Member States should ensure that the information is held in a central register in each Member State. Prior to the entry into force of the AMLD5, Member States were obliged to ensure that the information on the beneficial ownership was accessible in all cases to competent authorities and FIUs without any restriction, and any person or organisation that could demonstrate a legitimate interest. AMLD5 amended this rule so that Member States were responsible to ensure, that the information was available in all cases to any member of the general public.<sup>176</sup>

In the case *WM and Sovim SA v Luxembourg Business Registers*, The CJEU gave a ruling, declaring invalid the requirement that information on beneficial ownership of companies should be accessible to the general public. The Court noted, that since the data referred to in AMLD4 and AMLD5 included information on identified individuals, the access of any member of the general public to those data affected the fundamental right to respect for private life, guaranteed in Article 7 as well as the right to personal data, guaranteed in Article 8, of the Charter of Fundamental Rights of the European Union (the Charter). As a result, Member States must ensure that access remains limited to those with a “legitimate interest” rather than open public access.

In Article 65 of AMLD5, which amends Annex III of the AMLD4, cultural artefacts and other items of archaeological, historical, cultural and religious importance were added to the list of factors for potentially higher risk for money laundering. This strengthens the risk-based approach by requiring obliged entities to apply enhanced due diligence when dealing with transactions involving high-risk cultural goods.

The sixth Anti-Money Laundering Directive (AMLD6), stepped into force in May 2024 and will apply directly in Member States beginning 10 July 2027. AMLD6 will further reinforce the EU’s anti-money laundering regime by harmonising the definition of money laundering offences, expanding the scope of criminal liability, including for legal persons, and improving cross-border enforcement cooperation.

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<sup>176</sup> AMLD5 Article 1(15)(c).

## 5.2 The movement of art

### 5.2.1 Export rules

The movement of art regards both the export and import of artworks into and from the EU. Until recent years, only exports out of the Union have been regulated. The first Union regulation regarding the export of cultural goods was the Council Regulation (EEC) No 3911/92 on the export of cultural goods (Regulation 3911/92). The regulation was set in place due to a need to take measures, in particular to ensure that exports of cultural goods are subject to uniform controls at the Union's external borders. It served as a completion of the internal market at the time and required Member States to acquire export licenses for certain cultural objects, acting as safeguard for national treasures in the trade of cultural goods with third countries. The purpose of the original regulation was to prevent the illicit trafficking of cultural object and to ensure uniform protection across the Union.

Regulation 3911/92 has been substantially amended several times after its casting, which lead to its codification in 2009. Council Regulation (EC) No 116/2009 on the export of cultural goods (Regulation 116/2009) was codified in order to maintain a uniform set of rules on trade with third countries to protect cultural goods. The most central aspect of Regulation 116/2009 is the obligation it places on exporters of cultural goods outside the customs territory to present an export license.<sup>177</sup>

However, the obligation to obtain an export licence is subject to specific conditions relating to the nature, age, and financial value of the cultural object. Certain categories of cultural goods—including archaeological objects, components of dismantled monuments, books, paintings, sculptures, manuscripts, maps, collections of scientific or historical interest, and antique items—may be exempt from licensing requirements if their value falls below specified financial thresholds, which range from €15,000 to €150,000 depending on the type of object. Conversely, where the value of these objects meets or exceeds the applicable thresholds, an export licence becomes mandatory. Furthermore, particularly sensitive categories of cultural property, such as archaeological objects, dismembered monuments, incunabula, manuscripts, and archives, require an export licence regardless of their monetary value.<sup>178</sup>

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<sup>177</sup> (EC) No 116/2009 Article 2(1).

<sup>178</sup> *Ibid.* Article 2(2).

Commission Implementing Regulation (EU) No 1081/2012 for the purposes of Council Regulation (EC) No 116/2009 on the export of cultural goods (Implementing Regulation 1081/2012) lays out the different forms of export licenses; the standard license, the specific open license and the general open license. It also points out that the use of licenses in no way replaces or affects the obligations connected with export formalities or related documents.<sup>179</sup>

The standard license is generally used for exported items regulated under Regulation 116/2009, but Member States may decide to issue any type of specific or general open licenses in situations, where specific conditions are fulfilled.<sup>180</sup> A standard license may, principally, be used for exports subject to Regulation 116/2009.

The specific open license may be used in situations, where a specific cultural good is liable to be temporarily exported from the Union on a regular basis for use and/or exhibition in a third country. A license can only be granted, if the authorities have good reason to believe that the good will be returned in good condition to the Union and that the good being exported is that described in the specific open license. The license may not be valid for a period longer than five years.<sup>181</sup>

The general open licenses may be issued to museum and other institutions to cover any of the goods that belong to their permanent collection that are liable to be temporarily exported from the Union on a regular basis for exhibition in a third country. Similarly to the specific open license, the general open license can only be granted if there is reason to believe that the good will be returned to the Union in good condition. The license may also not exceed the period of five years.<sup>182</sup>

Any specific or general open license may be revoked if the conditions under which it was issued are no longer met. Such revoke should immediately be informed to the commission.<sup>183</sup>

### 5.2.2 Import rules

Europe has throughout history been an attractive destination for illicit art trade due to its rich cultural heritage and appreciation for art and history along with its vast art market and its proximity to the Middle East and Africa.<sup>184</sup> The need for a more uniform regulation throughout the

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<sup>179</sup> EU 1081/2012 Article 1.

<sup>180</sup> *Ibid.* Article 2.

<sup>181</sup> EU 1081/2012 Article 10.

<sup>182</sup> *Ibid.* Article 13.

<sup>183</sup> *Ibid.* Article 2.

<sup>184</sup> The European Commission 2017.

EU has risen from a phenomenon called “port-shopping”. The earlier patchwork of rules, where only certain Member States have had prohibitions in place, has enabled traffickers to favour routes through the more vulnerable and unregulated parts of the Union.<sup>185</sup> Europe’s central location has enabled it to act as a bridge between the US, Asia and Africa, making it a crucial port for art dealers and traffickers throughout the world. The role as a pass-through region is a central reasoning for advocating for Union-wide legislation.

Due to the immense cultural and financial value, the protection of cultural goods from unlawful appropriation and pillage has become a recognised necessity. The European Parliament has reasoned that the previous lack of coherent regulation of the trade of cultural goods has facilitated the movement of cultural goods to the shadow economy, where the high value and valuation ambiguity has made them particularly attractive assets for illicit activities.<sup>186</sup>

Regulation 2019/880 on the Introduction and Import of Cultural Goods (Regulation 2019/880) is a response to numerous calls for action across EU institutions and national governments to counter the illicit trafficking of cultural goods more efficiently. The main objective of the Regulation is to prevent the importing and storing of illicitly exported cultural objects in the EU, and thus disrupt the art trafficking, that takes place in order for terrorist organisations to raise funds.<sup>187</sup> It is intended to increase transparency of art purchases and sales transactions, disrupt criminal activity and cut off a source of terrorist financing through the use of the art market. The Regulation also aims to protect cultural goods from loss and destruction.<sup>188</sup>

Regulation 2019/880 was introduced in the Commission’s 2015 European Agenda on Security and the 2016 Action Plan to strengthen the fight against terrorist financing, when the Commission announced the establishment of a proposition for a regulation to prevent the illicit trade of cultural objects. In the 2016 Action Plan the Commission called for a disruption of the sources of revenue of terrorist organisations, as illicit trade of cultural goods from occupied areas became a primary source of revenue for terrorist organisations.<sup>189</sup> The call to adopt common rules on trade with third countries arose from the need to ensure the effective protection against illicit trade in cultural goods and against loss and destruction of humanity’s cultural heritage.<sup>190</sup>

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<sup>185</sup> The European Commission 2017.

<sup>186</sup> EU 2019/880 (3).

<sup>187</sup> The European Commission 2016.

<sup>188</sup> Saleeby 2019.

<sup>189</sup> European Commission 2016.

<sup>190</sup> HE 4/2025.

Previously the import of cultural goods has only been limited with sanctions, or in situations where the cultural goods have been affected by a return request. The import of cultural goods had not previously been uniformly monitored, and goods had been able to move freely, unless the country of origin specifically requested the monitoring of a certain object.<sup>191</sup> Before Regulation 2019/880, the movement of cultural goods had only been regulated by Regulation 116/2009 and Commission implementing regulation (EU) 1081/021 for the purposes of Council Regulation 116/2009. Having regulations in place only for cultural artefacts exiting the EU lowered the effectiveness of the UNESCO 1970 Convention.

The Regulation imposes a set of rules by which cultural goods (this includes archaeological finds, artworks, manuscripts, collectible items and rare books) are categorized in accordance with their perceived risk status. Part A of the Annex of the Regulation lists the cultural goods, that the Regulation regards. Part B lists those items in Part A, whose importation require a special permit by an authority, and Part C lists those items in Part A, whose importation require a written insurance, that the item has not been exported illicitly from its country of origin. These are cultural items, that are over 200 years old and valued at a minimum of 18 000 euros.

Part A of the Annex lists items which, when removed from the territory of the country where they were created or discovered in breach of the laws and regulations of that country, importation should be prohibited and the introduction of this kind of item should be penalized in each Member State according to Article 11 of the Regulation. Part A of the Annex covers a broad range of culturally significant objects, including rare collections and specimens relating to fauna, flora, minerals, and anatomy, as well as objects of palaeontological interest; property connected to historical events, scientific and technological development, military and social history, or the lives of prominent national figures; and items derived from archaeological excavations or discoveries, whether conducted lawfully or clandestinely, on land or underwater. It also includes elements removed from artistic or historical monuments and archaeological sites, antiquities more than one hundred years old such as inscriptions, coins, and seals, and objects of ethnological or artistic importance. Furthermore, the scope extends to rare manuscripts and incunabula, historically or culturally significant books and publications, stamp collections, archives in various formats including sound and film, and antique furniture and musical instruments exceeding one hundred years of age.

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<sup>191</sup> HE 4/2025.

According to Article 3 of the Regulation, cultural goods, that have been illicitly exported from a third country, should not be imported to the Union's customs area. The general rule of the Regulation states, that the illicitness of an export is dependent on the ruling of the export country, meaning that the Regulation forbids the importation of any object, which exportation has breached the regulations of the country, in which it has been created, or where it has been discovered. This regards any object listed in Part A of the Regulation, regardless of age and value.

When a cultural good is exported directly from the country to whose cultural heritage it belongs to, the importer must prove that the export from the source country was legal. When the good is not exported from its origin country, but another signatory member of the UNESCO 1970 Convention, it must be proven, that it is being exported legally from that signatory member into the EU. If the country of dispatch is not a signatory member of the UNSECO 1970, the importer will have to prove that the cultural good was legally imported from the initial source country to the non-signatory country.<sup>192</sup>

Listed in Part B of the Annex are cultural goods that require and import license, issued by the competent authorities of a Member State, according to Article 4 of the Regulation. The list includes products of archaeological excavations (including regular and clandestine) or of archaeological discoveries on land or underwater, when they are more than 250 years old; and elements of artistic or historical monuments or archaeological sites which have been dismembered (including liturgical icons and statues, even when free-standing), when they are more than 250 years old. For Part B goods, importers must obtain an import license before entry into the EU, which shows evidence, in the form of export certificates or licenses, that the goods have been exported lawfully from their country of origin, or that law prohibiting the export at the time did not exist.

Part C of the Annex lists items, which import requires an importer statement, which should be submitted by the holder of the goods to the electronic system referred to in Article 8 on the Regulation. The statement should consist of a declaration signed by the holder that states that the goods have been exported from the country of origin in accordance with the laws and regulations of that country and a standardized document that describes the cultural goods in question in sufficient detail for authorities to be able to identify and perform risk analysis and targeted controls on the item.

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<sup>192</sup> EU 2019/880 Article 5.

The requirement applies to a range of culturally significant objects, including rare collections and specimens relating to fauna, flora, minerals, anatomy, and palaeontology; items connected to historical events, scientific and technological development, military and social history, or the lives of prominent individuals; antiquities such as inscriptions, coins, and engraved seals; objects of ethnological or artistic importance; rare manuscripts and incunabula; and historically, artistically, scientifically, or literarily significant books, documents, and publications. These requirements apply where such objects are more than 200 years old and have a value exceeding €18,000 per item.

If the country of origin cannot be reliably determined or the goods were taken out of their country of origin before 24 April 1972 (the entry into force of the 1970 Convention), the declaration may state the location from where it was last exported from, if the period was longer than five years and the purpose was for other than temporary use. This period has been chosen to prevent exporters from forum shopping for countries with less stringent export regulations and exporting the items to the EU from there.<sup>193</sup>

Commission Implementing Regulation 2021/1079 laying down detailed rules for implementing certain provisions of Regulation 2019/880 (Implementing Regulation 2021/1079) further details the Union's rules on import licenses and importer statements. For example, Article 3 sets out exceptions, for when temporary admission of cultural goods may be permitted without an import license or an importer statement. Temporary admission without an import license or an importer statement is allowed, when the cultural good is used exclusively for teaching, vocational training or scientific research conducted by public establishments, for temporary lending by museums and similar institutions in third countries, for digitisation or for restoration or conservation by professional experts. However, even the holders of cultural goods exempted from the documentary requirements, are required to provide a standardised general description of the goods in the electronic system for the import of cultural goods (ICG).<sup>194</sup>

The applicant seeking an import license is fully responsible for any mendacious statement made when filing an application for an import license. According to Article 8 of the Implementing Regulation 2021/1079, the applicant is required to provide evidence to the competent authority, that the cultural good in question has been exported from the country of interest in accordance with its laws and regulations or to provide evidence of the absence of such laws and regulations.

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<sup>193</sup> Foord 2025.

<sup>194</sup> EU 2021/1079 Article 4.

Due to the requirements set out in Regulation 116/2009, customs authorities have already before Regulation 2019/880 been obliged to routinely check for certificates or licenses at export. The new Regulation does, however, require that customs officers and officials from cultural authorities go through additional training in order to develop relevant expertise and cooperation between the actors on national and Union-level as well as with businesses in the art market. The Regulation also places the requirement for Member States to have competent customs offices in place and allow for Member States to restrict the number of customs offices competent to handle the import of cultural goods.<sup>195</sup> According to Article 7 of the Regulation, the Member States' customs authorities are also obliged to cooperate between each other for the purposes of implementing the Regulation.

Article 11 of the Regulation places the responsibility of laying down penalties for infringements of the Regulation to Member States. These penalties shall be placed for infringement of Article 3, i.e. the introduction of an illicitly removed cultural good from a third country to a Member State and stated to the Commission by each Member State by December 2020. The falsifying of import licenses or importer statements should also be penalized, and the penalties notified to the Commission after 28 June 2025, when the electronic system was published.

Like AMLD5, Regulation 2019/880 has also placed scrutiny on freeports. The Regulation claims, that due to their high-risk nature, the control measures put in place regarding them should have as broad a scope as possible in order to prevent circumvention of the Regulation through the exploitation of freeports. The Regulation therefore states, that control measure should also concern cultural goods placed under a special customs procedure.<sup>196</sup> The European Parliament does, however, state that systematic control measures should exclude transit.<sup>197</sup>

A central part of ensuring compliance with the Regulation is the electronic data system, published on 28 June 2025. Articles 8 through 10 of the Regulation set out the framework for the data system, stating that the storage and the exchange of information – in particular import licenses and importer statements, regulated in Articles 4 and 5 of the Regulation – between customs authorities, should be carried out by means of a centralised electronic system. The purpose of the database is to ensure the interconnection between relevant customs, cultural authorities and existing databases.<sup>198</sup>

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<sup>195</sup> EU 2019/880 Article 6.

<sup>196</sup> EU 2019/880 (6).

<sup>197</sup> *Ibid.* Article 6.

<sup>198</sup> EU COM(2022) 800.

The Implementing Regulation 2021/1079 lays out the practical framework for the electronic data system. The Implementing Regulation states the development, maintenance and functioning of the electronic data system as the responsibility of the Commission.<sup>199</sup> The electronic data system should contain electronic import licenses, importer statements as well as general descriptions of the goods in system.

Importers are required to register the cultural object being imported to the electronic data system. Importer means the holder of the goods, that is, the person who is the owner of the goods or who has a similar right of disposal over them or who has physical control over them. Importing a cultural good regulated by Regulation 2019/880 requires that the importer is registered to the electronic data system. Once registered, the importer can apply for an import permit or submit an importer statement on the goods.

## 6. The question of repatriation

### 6.1 The purpose of repatriation

During the last decade, the art world has witnessed growing public critique over the trade and ownership of ancient art, regarding topics of restitution and repatriation reverberating far beyond the immediate art world. The critique has mainly been appointed to artefacts taken from former European colonies now residing in national galleries and museums, or to Nazi looted art during the Second World War.<sup>200</sup>

The legal status of looted or stolen art is multifaceted and challenging. While cultural objects can be protected as heritage, they are also subject to property law. Major differences exist, most notably between common law systems and civil law jurisdictions, on how title over a good can be transferred to a new possessor. For misappropriated cultural property, a typical private law approach may not work, as stolen artefacts tend to resurface only years or decades later, by which time they may have crossed multiple borders. A central issue then is that ownership disputes regarding movable goods are in most jurisdictions regulated by the law of the country where the object is located at the time of a transaction (*lex rei sitae*). This then leads to the enabling of transferring the ownership of a stolen artefact in a jurisdiction, where the transfer of

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<sup>199</sup> EU 2021/1079 Article 14.

<sup>200</sup> Foord 2025.

the ownership title of stolen goods can be transferred after a *bona fide* acquisition, or by the passage of time.<sup>201</sup>

A private law tool to prevent the ‘laundering’ of cultural objects has surfaced for conflict of law situations for cross-border title claims to cultural goods. According to the *lex originis*, the law of the country of origin or the law of the country where the loss occurred governs the matter of ownership. Earlier studies have proposed, that enacting a harmonized choice of law rule, such as the *lex originis*, would create more clarity on the question of what should count as unlawful provenance.<sup>202</sup>

Patrimony laws, from the Latin *patrimonium* (property inherited from one’s father), dictate inheritance, as that modern nation states inherit the ancient objects in its region.<sup>203</sup> Repatriation is the act of returning an object to its nation state. Some national laws have for a long time ruled, that antiquities belong to the States, that they have been discovered in. Italy ruled this in 1909 and Greece in 1899.<sup>204</sup> The national laws are backed by international legislation, such as the UNESCO 1970 Convention, which declares that all cultural property found within the national territory is part of the cultural heritage of that State.<sup>205</sup> Accordingly, other States have the responsibility to take appropriate steps to recover the import of cultural property that has been illegally exported, and to take appropriate steps to recover and return any such cultural property imported after 1972.

## 6.2 Legislation regarding repatriation

The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (UNIDROIT 1995) was drawn as a response to the illicit trade in cultural objects and the irreparable damage caused by it. The UNIDROIT 1995 regulates the restitution of stolen cultural objects as well as the return of cultural objects removed from the territory of a Contracting State contrary to its law regulating the export of cultural objects for the purpose of protecting its cultural heritage.<sup>206</sup> The UNIDROIT 1995 states, that “the possessor of a cultural object which has been stolen shall return it”.<sup>207</sup> It also

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<sup>201</sup> Campfens 2023, p. 21.

<sup>202</sup> *Ibid.*

<sup>203</sup> Freeman 2025.

<sup>204</sup> Freeman 2025.

<sup>205</sup> UNESCO 1970 Convention Article 4.

<sup>206</sup> UNIDROIT 1995 Article 1.

<sup>207</sup> *Ibid.* Article 3.

lays out rules for Contracting States to request the return of a cultural object illicitly removed. Market nations have largely chosen not to ratify the convention.<sup>208</sup>

According to Article 3 of the convention, the illicitness of the exportation is determined based on the national laws of a signatory state, of which a cultural object has been unlawfully excavated or retained. Article 5 states, that a signatory state may request the court or other competent authorities of another signatory state to order the return of a cultural object illegally exported from the territory of the requesting state. Such object shall be returned to the origin country, if it is of significant cultural importance for the requesting state, or if the removal of the object from its territory impairs the physical preservation of the object or of its context; the integrity of a complex object; the preservation of information, or, for example, a scientific or historical character; or the traditional or ritual use of the object by a tribal or indigenous community.

Article 4 of the Convention, and later many legal and ethical instruments, states that in determining whether the possessor exercised due diligence, regard should be had to all the circumstances of the acquisition. This includes the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained, and whether the possessor consulted accessible agencies or took any other step that a reasonable person would have taken in the circumstances.

Directive 2014/60/EU regulates the return of cultural objects classified or defined as national treasures, which have been unlawfully removed from the territory of a Member State.<sup>209</sup> National treasures are defined as per Article 36 TFEU as objects “possessing artistic, historic or archaeological value”. The unlawful removal is defined as either a breach of a Member State’s own rules on the protection of national treasures or a breach of Regulation (EC) 116/2009 or the failure to return a national treasure at the end of a period of lawful temporary removal.<sup>210</sup> The Directive relies therefore heavily on the Member State’s own definition of national treasures as well as their own regulations on the removal of such. Member States are also encouraged to cooperate between other Member States with a view of protecting cultural heritage of European significance, to which national treasures belong.<sup>211</sup> Directive 2014/60/EU is based on administrative co-operation between Member States. It sets out a set of rules for Member States

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<sup>208</sup> Freeman 2025.

<sup>209</sup> 2014/60/EU Article 1.

<sup>210</sup> *Ibid.* Article 2.

<sup>211</sup> *Ibid.* (3).

regarding, for example, national officials, who are responsible for acting based on applications from requesting Member States.

The Directive also points out, that public information on cultural objects classified as national treasures by Member States would be useful in combatting the illicit removal of such objects.<sup>212</sup> Public information on whether a good is classified as a national treasure, will be likely to help buyers determine before purchasing, whether the item can be removed from the Member State of its origin. Directive 2014/60/EU may place the duty to return an object or any kind of cultural good, regardless of the value and cultural interest it holds.

Directive 2014/60/EU encourages all art market professionals to exercise due care and attention in transactions involving cultural objects. The possessor of an artwork for sale should be able to provide proof that they exercised due care and attention in acquiring the object, for the purpose of compensation.<sup>213</sup> Proving that a cultural good is acquired in good faith with the exercise of due diligence is difficult. Article 10 of the Directive requires Member States to offer fair compensation for a cultural item returned to a Member State, when the purchaser of said item has exercised care and due diligence in acquiring the object. However, the Directive does not specify the amount of the fair compensation and leave unclear whether fair compensation would be correspondent to market value, the price paid or another amount.<sup>214</sup> In practice, the return of stolen cultural goods to the source country is carried out through diplomatic contact between the EU Member State in which the goods are found and that of the source country.

It is to be noted, that although technically, Directive 2014/60/EU may concern a large amount of cultural goods, restitution is an expensive process for Member States. This limits restitution processes to only be carried out when the removed goods are of high cultural interest. Such goods are, however, often well known in the market, simplifying the process for the police.<sup>215</sup>

EU also has in place restitution regulations regarding art stolen in a specific era or a specific area. The Council of Europe's Resolution 1205 (1999) on looted Jewish cultural property alongside the Washington Conference Principles on Nazi-Confiscated Art from 1998 regulate the restitution of Nazi-looted art during World War II. The destruction of the Jewish cultural heritage was an essential part of the Nazi plan to eradicate the Jews.<sup>216</sup> Although some repatriation attempts were

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<sup>212</sup> 2014/60/EU (18).

<sup>213</sup> *Ibid.* (17).

<sup>214</sup> Magri 2016, p. 206.

<sup>215</sup> *Ibid.*

<sup>216</sup> Resolution 1205 (1999) para. 1.

made following the end of World War II, a considerable amount has not been recovered and remains in private and public hands.<sup>217</sup> Resolution 1205 (1999) calls for the restitution of Nazi-looted cultural property to its original owners or their heirs or countries as a way of enabling the reconstitution of Jewish culture in Europe<sup>218</sup> and for the parliaments of all Member States to give consideration to ways in which the return of looted Jewish cultural property could be facilitated.<sup>219</sup> The Washington Conference Principles on Nazi-Confiscated Art states that art confiscated by the Nazis should be identified, publicized and claimed by the pre-war owners and their heirs.

### 6.3 Examples of repatriation disputes

#### 6.3.1 The Parthenon Marbles

The most famous repatriation dispute is the case of the Parthenon Marbles. The marbles themselves, although seemingly insignificant, and unrecognizable to a large part of the public, are at the centre of a dispute still regularly discussed and commented, making it the world's longest-running high-profile cultural dispute.<sup>220</sup>

The Parthenon Marbles are a collection of circa 90 large pieces of ancient, sculpted marble for the Parthenon in Athens, that are now being held at the British Museum. The marbles were originally removed from the Parthenon in the beginning of the nineteenth century, when Greece was under the Ottoman rule, by men working under a British diplomat, the Earl of Elgin - hence, sometimes referred to as the "Elgin Marbles". The legitimacy of the removal has been criticized and contested since 1816, when the British museum first acquired the marbles.<sup>221</sup> The poet Lord Byron, who had seen some of the marbles being shipped off in 1809, called the Earl of Elgin 'the last, the worst, dull spoiler' in the poem *Childe Harold's Pilgrimage*.<sup>222</sup>

The Parthenon Marbles are still housed in the British Museum, despite continuous critique and a large part of the Greek population finding the repatriation of the marbles extremely important to the country.<sup>223</sup> Even a large part of the British population supports the returning of the marbles.<sup>224</sup> The UK Government has repeatedly claimed the right to the marbles, stating that they were

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<sup>217</sup> Resolution 1205 (1999) para. 4.

<sup>218</sup> *Ibid.* para. 9.

<sup>219</sup> *Ibid.* para. 10.

<sup>220</sup> Herman 2023, p. 1.

<sup>221</sup> *Ibid.* p. 3.

<sup>222</sup> *Ibid.* p. 2.

<sup>223</sup> *Ibid.*

<sup>224</sup> *Ibid.*, p. 3.

legitimately acquired by Lord Elgin and that the British Museum Act of 1963 even prevents the Trustees from returning the collection.<sup>225</sup>

The Marbles dispute was brought before the European Court of Human Rights in 2016, when a Greek lawyer, Mr V. Sotiropoulos, took before the Court, after the UK had declined UNESCO's offer for mediation between the UK and Greece in regard of the Parthenon Marbles, stating that the Marbles had been legally acquired by Lord Elgin. The applicant argued that the UK's refusal to take part in the mediation amounted to a violation of Articles 8, 9, 10 and 13 of the European Convention on Human Rights and of Article 1 of Protocol No. 1. However, the Court found it clear that the applicant relied on the UK's refusal to mediate in 2015 to seek an opinion from the Court on an underlying grievance of the removal of the Marbles. The application was found inadmissible due to an incompatible *ratione temporis* with the provisions of the Convention.<sup>226</sup>

### 6.3.2 Victorious Youth

In 2024, in the case of *The J. Paul Getty Trust and Others v. Italy*, the European Court of Human Rights saw no violation in the confiscation order issued by Italian authorities aimed at recovering from the Getty Museum in the US the bronze statue, *Victorious Youth* (also referred to as the *Athlete of Fano* or the *Lysippus of Fano*), from the classical Greek period. The case concerned the confiscation order that aimed to return *Victorious Youth*, housed at the Getty Villa Museum in the US, back to Italy, where it was first found in 1964 by fishermen in the Adriatic Sea. The statue was eventually sold to unknown parties with its whereabouts remained unknown until it reappeared in Munich, where it was bought by The J. Paul Getty Trust in 1977.

After the sale of *Victorious Youth*, the Italian authorities made multiple attempts to recover the statue, which eventually led to enforcement proceedings in 2007 that resulted in the adoption of a confiscation order by the District Court, that was later upheld by the Court of Cassation. The Italian courts made the ruling on the basis, that the statue was protected by Italian cultural heritage and customs law and had been unlawfully exported from Italy and then negligently purchased by the Trust. Following the judgment, the Italian Ministry of Justice had sent an international letter of request to the US authorities for recognition and enforcement of the confiscation measure, but the procedure was still pending in its first phase. Based on these facts, the Trust and fourteen members of its board of trustees took to the European Court of Human

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<sup>225</sup> Herman 2023, p. 4.

<sup>226</sup> *Syllogos ton Athinajon v. The United Kingdom*.

Rights to claim that the adoption of the confiscation order violated their right to the peaceful enjoyment of their possessions, as guaranteed by Article 1 of Protocol No. 1.

Firstly, the Court saw, that because the confiscation order did not affect the interests of the trustees, the victim status was not applicable to them, thus the *ratione personae* of the application was incompatible as to the fourteen applicant trustees. The Trust was able to claim victim status on the base that the confiscation order, even though not enforced, had directly affected the Trusts ability to hold the statue on display during an exhibition in Italy due to the risk of it being seized.

In the case, the purchase of the statue was not disputed, but rather the validity of the title, both under Italian and US law. Under Italian heritage law, cultural objects belonging to the State are inalienable and imprescriptible. However, because the Trust had been able to possess the statue for a long time without interruption, the Court saw that the *ratione materiae* was established under Article 1 of Protocol No. 1.

The Court saw that the confiscation order did amount to an interference with the applicant's proprietary interests protected by Article 1 of Protocol No. 1, but decided to leave open the issue, due to the complexity of the legal situation in the case. Although the unlawful exportation of the statue did have civil effects, the Court held that it was namely an issue of the protection of cultural heritage. Accordingly, the justification of the interference had to be assessed by taking into account the unique and irreplaceable nature of cultural objects, which offers States a wide margin of appreciation where cultural heritage issues are concerned.

Because of the importance of protecting a country's cultural and artistic heritage, the Court considered that the Italian authorities had reasonably demonstrated that the statue formed a part of Italy's cultural heritage and had been owned by the State when the confiscation order had been issued. Moreover, the domestic courts had demonstrated, that the statue had been taken from Italy without the relevant reporting obligations being complied with and had subsequently been exported without the necessary license and payment of the relevant customs duties. Italy has adopted a regulation already in 1902, that levied an export tax on all cultural objects older than 50 years and mandated that all discoveries and sales be reported to the government. Law no. 364, from 1909, prohibits any unapproved sale or export of culturally significant objects, which the Italian Ministry of Education has the power to purchase and affirms any archaeological discoveries to be property of the Italian state.<sup>227</sup> The domestic courts had, therefore, found that

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<sup>227</sup> Freeman 2025.

the Trust had purchased *Victorious Youth* in the absence of any proof of its legitimate provenance, despite being aware of at least some doubts in that respect and with full knowledge of the Italian authorities' claims over it. Therefore, the purchase has been done negligently, if not in bad faith.

To counterclaim the statements of the Italian authorities, the Trust repurposed often used ideas opposing repatriation. The Trust contended, that because *Victorious Youth* was made in Greece it was, in fact, not Italian national heritage, and that after the statue had remained part of the Getty Museum for forty years, the Trust had acquired a right to "the peaceful enjoyment" of it. The Trust also claimed that while being displayed at the Getty, it was available to the general public, and that Italy had not clarified how it intended to more effectively facilitate access to the Statue.

### 6.3.3 Other repatriation cases

A notorious case of repatriation is that of a 6th century B.C.E. ancient Greek pot, referred to as the *Sarpedon Krater* or *Euphronios vase*. The pot was looted from an Etruscan tomb in Italy in 1971 and illegally sold to the Metropolitan Museum of Art in New York (The Met). When the Italian government requested the return of the pot, in 2008 the Met, seeking to avoid a long court battle, struck an agreement for its return. After being on display in Rome in 2014, the pot was moved to the National Archaeological Museum of Cerveteri, nearby the Etruscan tomb from where it had been stolen.<sup>228</sup>

In 2018, a photo of Kim Kardashian helped in returning the stolen coffin of Nefertiti from the Met to Egypt. The coffin was sold to the Met for \$4 million, using fake documents after being dug up from the al Minya region in Egypt in 2011, during a revolution. Kardashian's picture of her posing next to the coffin was sent to Manhattan Assistant District Attorney Matthew Bogdanos, when the tipper was irritated for never being paid for unearthing the coffin. After finding out that the Met had been a victim of fraud, unwillingly participating in the illegal trade of antiquities, the coffin was returned to Egypt.<sup>229</sup>

A recent denial by the Dutch Supreme Court of a claim by Sweden based on Directive 2014/60, to an antique manuscript, stolen from the Swedish Royal Library and found in the possession of a Dutch dealer, showcase the obstacles for restitution even within the EU. The restitution of the manuscript was denied in the case on basis of a lapse of the limitation periods.<sup>230</sup>

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<sup>228</sup> Thompson *et.al.* 2017.

<sup>229</sup> New York Post 18.10.2021.

<sup>230</sup> Campfens 2023, p. 20.

#### 6.4 Art market responses to calls for repatriation

The issue of repatriation is often argued. Common justification for not repatriating artefacts is that the countries of origin do not have the high levels of ability to restore or preserve the artefacts that the countries where they are currently residing have. Opposers of the idea have also argued, that rather than national culture, cultural objects should belong to a shared human heritage and are components of a common human culture. This idea is also present in the 1954 Hague Convention, which claims that “damage to cultural property belonging to any people whatsoever mean damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world.”<sup>231</sup> It has also been thought that cultural objects should remain where they have the opportunity to reach a wider audience.<sup>232</sup>

In 2002, a group of museums, as opposition to the idea of repatriation, came out with a Declaration on the Importance and Value of Universal Museums. The group, including for example the Getty Museum in Los Angeles, the Louvre in Paris, The Metropolitan Museum of Art in New York and the Rijksmuseum in Amsterdam, stated that although the illegal traffic in archaeological, artistic and ethnic objects must be firmly discouraged, it should be recognized that objects acquired in earlier times must be viewed in the light of different sensitivities and values, reflective of that earlier era. They claimed that over time, the objects that have been illicitly acquired, whether by purchase, gift or partage, have become part of the museums that have housed them, and by extension part of the heritage of the nations which house them. The group also claimed that museums do provide a valuable context for displaced objects and that the display of cultural objects in museums has promoted and established a universal admiration for ancient civilizations, that would not be so strong today, were it not for museums.<sup>233</sup>

Despite the earlier opposing views, museums have become more receptive to the idea of repatriation. Following the Italian investigation into Giacomo Medici, an antiquities smuggler convicted in 2005, evidence surfaced proving that certain objects in museum collections were looted and illicitly trafficked, many of them post the 1970 Convention. Faced with legal pressure and bad press, museums repatriated a wave of looted antiquities and instituted new guidelines in 2004 and 2008. The latter affirmed a general consensus, called the 1970 standard: museums

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<sup>231</sup> The Hague 1954 Convention.

<sup>232</sup> Merryman 1986, p. 847.

<sup>233</sup> Cleveland Museum of Art 2003.

shall only acquire objects removed from their country of origin before the 1970 Convention. In cases that violate this standard, museums are often more willing to repatriate.<sup>234</sup>

A long standing issue with the museum's role as a codifier of history through art and artefacts is that the story of history is more often than not imperialistic and centred around white, Western men, be they inventors, conquerors, kings, popes, explorers, patrons, painters or sculptors.<sup>235</sup> Therefore, while the artefacts may be well taken care of and available for a larger public when on display in large national museums or wealthy private ones, they are often left to play a role in a telling of a particular imperialist historical point of view.

There is a strong and well-established consensus in both international and European law with regard to the need to protect cultural objects from unlawful exportation and to return them to their countries of origin.<sup>236</sup> Those in favour of repatriation often argue for the right of the native countries to decide on the appropriate use, purpose and preservation of artefacts of cultural importance. This legal and moral commitment has increasingly been accompanied by a notable shift in attitudes of museum administrators. As repatriation has been raised to be one of the central cultural issues of our time, museums everywhere have begun to address the contentious artefacts in their collections, often deciding to return pieces to their homelands. This is especially prominent for pieces from Africa, after a movement prompted by French President Emmanuel Macron, and subsequently echoed in Germany, Belgium and The Netherlands. The attitude regarding some of the traditional arguments against restitution are starting to wear thin, reflecting a broader transformation in attitudes towards cultural heritage, historical accountability and post-colonial justice.<sup>237</sup>

## 7. Study results

### 7.1 A general overview of EU art market regulations

The European Union regulates the art market through a combination of Union-wide legislation along with national Member States' regulations and market self-regulatory rules. The research showcases that the art market is governed through multiple layers of trade laws, customs legislation, anti-money laundering rules and specific rules concerning the cross-border

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<sup>234</sup> Freeman 2025.

<sup>235</sup> Thompson *et.al.* 2017.

<sup>236</sup> *The J. Paul Getty Trust and Others v. Italy.*

<sup>237</sup> Herman 2023, p. 5.

movement of cultural goods. In recent years, EU has focused especially on rules combatting money laundering and the illicit cross-border movement of cultural goods.

The parties of an acquisition determine what rules apply to the sale. In sales, where the buyer acts as a consumer, consumer right regulations are applied to art purchases, unless the purchase is conducted through online auction. The EU Consumer Rights Directive imposes mandatory pre-contractual information obligations and provides a 14-day withdrawal right in distant contracts. These rules are particularly relevant given the increasing digitalisation of the art market. The Directive reduces information asymmetry by requiring transparency concerning item qualities, including, for example, provenance. Its application remains limited to business-to-customer transactions, leaving out a substantial part of high-value art trade. Customer-to-customer and business-to-business art acquisitions are not regulated Union-wide, and it remains the responsibility of the parties in question to include appropriate safeguards to sales contracts.

The international art market is heavily affected by the Union's customs regulations. The Union Customs Code governs the supervision of goods entering, leaving, or stored within the Union, including in free zones and customs warehouses. While customs legislation establishes procedural control mechanisms, its primary purpose is fiscal and trade-related rather than specifically directed at preventing cultural property crime. Nevertheless, it forms an essential structural framework within which other regulatory instruments operate.

The movement of cultural goods is specifically regulated through export controls in Council Regulation 116/2009, and more recently, through import controls, in Regulation 2019/880. The new import rules prohibit the import of illicitly removed cultural goods and introduces documentary requirements, requiring import licenses or importer statements for certain categories of cultural objects. A central development is the electronic system Regulation 2019/880 provides in order to facilitate implementation. The import regime addresses previous regulatory gaps that have enabled cultural goods to enter through the process of port-shopping.

The perhaps most significant regulatory development regarding the art market during recent years has been the expanding of anti-money laundering rules through adopting the Fifth Anti-Money Laundering Directive. The amendment of the Directive brought certain art market actors and freeport operators within the scope of the anti-money laundering regulatory regime. The AMLD5 has extended regulatory oversight directly to art market participants, where transactions exceed specified monetary thresholds. These actors are now required to conduct customer due diligence, identify beneficial ownership, and report suspicious transactions. The inclusion of the art market within the AML framework reflects recognition of its vulnerability to money laundering

and terrorist financing, particularly due to high-value, portable, and easily transferable assets combined with opaque ownership structures.

All in all, these measures demonstrate a layered regulatory architecture that addresses the art trade through trade law, customs supervision, AML obligations and cultural heritage protection, rather than through a unified regulatory regime.

## **7.2 The efficiency of current art market regulations**

The efficiency of Union-level regulation must be assessed in light of both the formal existence of legal instruments as well as their practical operation. Union-level art market legislation remains fragmented and reactive, responding to emerging risks rather than anticipating them through comprehensive harmonisation. The current regulatory framework provides partial coverage of the market, but features inherent to the market, such as non-transparency, valuation ambiguity and the ease of anonymity, remain as issues difficult to police through legal instruments.

Prior to the AMLD5 and Regulation 2019/880, the Union framework had not been equipped to prevent cross-border abuse, particularly in relation to cultural goods entering the Union from third countries. The new legislations have assisted in moving the Union toward greater coherence. By extending AML obligation to art market actors and introducing a Union-wide import regime for cultural goods, the Union has moved toward a more integrated and risk-sensitive regulatory approach.

Although the recent AML obligations together with the import regulations represent a clear move toward a more coherent framework, the effectiveness of the regulations remain dependent on national implementation, supervision, penalties, and operational capacity, including training and cross-authority cooperation. The overall picture is therefore one of improved Union-level efficiency in recent years, but not of a fully closed regulatory system. The efficiency ultimately remains dependent on implementation quality and operational capacity across Member States. Structural features of the market, combined with enforcement disparities, limit the transformative impact of legislative reform.

Due to the recentness of market-specific Union regulations, the effect they have had on the market cannot yet be observed. Actors in the art market have, however, been vocal about the regulations' expected effects on the market. The regulations are feared to have a negative impact on the movement of artworks and to even hinder the return of cultural objects to their countries

of origin.<sup>238</sup> The stringent nature of the regulations is feared to stifle lawful art trade, while legitimate businesses are left to bear the brunt and cost of compliance.<sup>239</sup> The CINOA, the BAMF, the International Association of Dealers in Ancient Art (IADAA) and the International League of Antiquarian Booksellers (ILAB) have demonstrated their dissatisfaction with the amended AMLD. The critique mainly concerns the cost and administrative burden that the Directive places on small and middle-market dealers. Before the adoption of the Directive, the chairman of the IADAA claimed, that it 'will have serious implications for the trade, as well as collectors, if enforced.'<sup>240</sup> The European Commission has counter-argued, that due to the awareness that art dealers and museums are expected to operate by even before the Directive stepping into force, it is not expected that it would bring upon any undue burden on actors in the field.<sup>241</sup>

Art market professionals have predicted that artefacts with documentation are likely to rise in value, while those without will fall and be more likely to end up in less legitimate hands. Undocumented works are also predicted to risk ending up unsellable or immovable despite being acquired legitimately. This may lead to even legitimate collectors and traders seeking more unregulated markets.

The new AMLD is feared to push clients seeking discretion to dealers willing to circumnavigate regulations and to push smaller dealers out of the field as they are not able to afford a requisite compliance department. A reasonable worry is also that although the efforts of art dealers to act accordingly with the new AMLD, the benefits of the Directive will remain extremely limited, leaving significant loopholes for money launderers to exploit.<sup>242</sup>

According to the Art Basel's and UBS's Art Market report, after the post-pandemic recovery of growth in the art market during 2022, the art market has been facing a steady decline in the years following. The report valued the art market at \$65 billion in 2023<sup>243</sup>, 4 % lower compared to the previous year, and at \$57.5 billion in 2024<sup>244</sup>, at a 12 % decline. However, the number of transactions grew by 3 % in 2024, meaning that the thinning out is happening in the high end of the market.<sup>245</sup> The rise of lower end sales is mostly due to the rise on online sales, while the

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<sup>238</sup> The European Commission 2017.

<sup>239</sup> Foord 2025.

<sup>240</sup> The European Commission 2017.

<sup>241</sup> The European Commission 2017.

<sup>242</sup> CINOA 2018.

<sup>243</sup> McAndrew 2024.

<sup>244</sup> McAndrew 2025 a.

<sup>245</sup> *Ibid.*

declining of high-end art sales could arguably be at least partially blamed on the effect of more stringent financial regulations.

Auction houses have had in place voluntary AML policies before market-specific regulations. Those opposed to the Union-wide regulations claim that industry standards, including voluntary policies have been sufficient in combatting illicit action in the market. Evidence, showcased prior in this thesis, has proven that this is not a case. Additionally, while the biggest auction houses have had voluntary AML programs in place, art market professionals report cases, in which art advisors were never asked the identity of the buyer. Instead, any due diligence was performed on the advisor, even when it was well-known that the ultimate owner was someone else. Even if the AML policies were effective and properly exercised, a majority of art sales happen outside of auctions, through private dealers, who rarely report to have in place any voluntary policies.<sup>246</sup>

The unavoidable effect of the more stringent EU regulations is the movement of the markets to third countries with less regulated art markets. Due to the movable and tangible nature of artworks, it is relatively easy for dealers, as well as buyers, to conduct sales in countries with less regulations. For example, the U.S. is the largest single art market in the world, making up 42 % of all sales. Although the Anti-Money Laundering Act of 2020 did make the Bank Secrecy Act apply to antique dealers, it left out the multi-billion-dollar market for fine art.<sup>247</sup> The U.S. market operates on a system of soft law and self-policing. Two other projected winners of the EU market changes are post-Brexit UK and Asia.

The more stringent rules may also affect museum borrows as well as major European art fairs, such as TEFAF in Maastricht or Brafa in Brussels. Non-EU dealers may find it risky to bring their stock for display and sale, due to the evidential burden placed on them.<sup>248</sup> Museums in the EU may face difficulties in receiving loans for temporary exhibitions from private actors, as Article 3 of Directive 2019/880 only excludes temporary admissions of cultural goods from academic institutions, museums and similar institutions from requiring an import license or an importer statement.

The burdens of the new regulations are likely to affect small and medium-sized actors in the field. Major auction houses, like Sotheby's and Christie's already have internal compliance

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<sup>246</sup> U.S. Senate 2020, p. 3.

<sup>247</sup> The Neo Art Magazine 7.7.2025.

<sup>248</sup> *Ibid.*

departments, and are already most likely, through internal policies, complying with the new requirements or are able to do so without additional cost.<sup>249</sup>

Despite the opposition of market actors, industry-led self-regulation has mostly fallen on deaf ears, showcasing a dire need for governmental action. The inadequacy of industry self-regulation has also been proven in this research. Because of the high risk for crime within the sector, although market actors may be reluctant to adopt the new legislations, a more uniform legal framework has been overdue.

### **7.3 The remaining legal vulnerabilities**

The research identifies a number of structural vulnerabilities that have historically characterised the art trade in the European Union. These vulnerabilities have derived from the absence of uniform regulation as well as from the specific characteristics of the market itself. The market's central vulnerabilities have been the structural non-transparency, frequent reliance on anonymity in transactions, subjective valuation mechanisms, complex ownership structures and limited uniform oversight. These attributes, together with the art market's traditional emphasis on confidentiality and private sales, have made the sector vulnerable for financial crime, including money laundering and tax evasion, as well as criminal activity, especially the sale and movement of illicitly attained cultural goods.

Before the introduction of AMLD5 and Regulation 2019/880, one of the central legal vulnerabilities lay in the absence of systematic due diligence obligations for art market participants. Art dealers and freeport operators have not previously been subject to AML supervision, which allowed high-value transactions to take place without mandatory identification of beneficial owners. This regulatory gap enabled the use of artworks as instruments for money laundering, sanctions evasion, and tax evasion. The portability, high value, and subjective pricing of artworks made them particularly suitable for storing and transferring wealth across borders without triggering the scrutiny typically associated with financial institutions.

Freeports and other special storage arrangements have previously been described as particularly exposed to the risk of financial crime, since artworks could be stored and traded without meaningful scrutiny. Due to limited monitoring capacity and, prior to AMLD5, the absence of KYC-

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<sup>249</sup> Burroughs 2019, p. 1082.

obligations, which enabled layered ownership structures and the use of shell companies, freeports and other storage arrangements have held significant legal vulnerabilities.

Following the introduction of AMLD5 and Regulation 2019/880, several of the above-mentioned vulnerabilities have been narrowed, but not fully eliminated. The extension of AML obligations has brought key art market participants within a risk-based supervisory framework, requiring identification of clients and beneficial owners, ongoing monitoring, and reporting of suspicious activity. The import regulation has addressed the previous absence of a coherent Union-level regime by prohibiting the import of unlawfully removed cultural goods and by introducing documentation and licensing systems, supported by an electronic infrastructure.

Although the AMLD5 extends due diligence and suspicious transaction reporting duties to art traders, intermediaries and freeport operators above the threshold, the framework is risk-based and therefore uneven in practical intensity across actors. It is also to be noted, that the amount of freeports in the EU is negligible compared to the rest of the world. Therefore, EU customs and import regulations targeting freeports, unless backed by broader international legislation, will more likely move the business elsewhere.

For cross-border movement of cultural goods, the central vulnerability has been the lack of a coherent import-regulation, that enabled port-shopping, where illicitly attained objects could enter via more weakly regulated routes, and once inside the EU, benefit from the free movement of goods. Regulation 2019/880 significantly strengthened import-side controls through prohibitions and documentation requirements. The system does, however, rely on determinations of illegality based on the source country's laws and on effective enforcement capacity, including specialized training and cooperation between customs and cultural authorities.

A considerable remaining vulnerability concerns the provenance of artworks. Provenance is often incomplete, fragmented, or difficult to verify. In many cases, documentation may be missing due to historical disruptions, private sales, or insufficient record-keeping. Many artefacts have been traded for decades, and passed through numerous private collections without appropriate documentation, rendering their provenance unknowable. Because documentation has not earlier been required, providing it for these artefacts will be impossible or, at least, extremely burdensome for collectors and traders. As showcased earlier, provenance can also be fabricated. Murky provenance creates uncertainty regarding whether an object was lawfully exported from its country of origin, whether it was subject to theft or illicit excavation, or whether

competing ownership claims may exist. This uncertainty directly affects legal compliance and the effectiveness of art market targeted import and export regulations.

The difficulty of proving provenance is closely connected to unclear ownership structures. Where ownership is layered through intermediaries or corporate entities, it becomes challenging to identify who ultimately controls the asset. Before AMLD5, art market actors were not uniformly required to identify beneficial owners or conduct systematic due diligence. This regulatory gap enabled artworks to function as vehicles for wealth concealment, tax evasion, and sanctions circumvention. Although now specifically targeted in the Anti-Money Laundering Directive, the long history of ambiguities still affects provenance research today.

It is also to be noted, that due to the age limit for artworks of 200 years in Regulation 2019/880, contemporary art is left out of the ruling completely. While the Commission has claimed that this ruling ensures that art dealers are not unduly burdened<sup>250</sup>, it simultaneously creates a regulatory black hole. This may risk facilitating the movement of, for example, some Nazi-looted art.

These structural issues also affect customs enforcement. Even if customs officials receive appropriate training and enhanced resources, objects with unclear provenance present significant evidentiary challenges. Determining whether an import is legitimate may require assessing foreign cultural heritage laws, historical ownership documentation, and authenticity of supporting evidence. Such determinations are legally and factually complex. As a result, although the legal landscape has been strengthened, enforcement challenges and structural features of the market continue to create areas of legal exposure. Opacity, valuation subjectivity and cross-border complexity remain inherent characteristics of the art market, that regulation can mitigate but not entirely erase.

#### **7.4 Suggestions for future development**

The research suggests that future regulatory development should aim at addressing both structural transparency deficits and cross-border legal uncertainty. Suggested future development points follow four main lines. First, in order to reduce the fragmentation of the import control framework and risk-based AML duties, the Union should strengthen uniform enforcement capacity, including specialized training and structured cooperation between customs, cultural authorities, FIUs, and market actors. The effective enforcement of AML obligations and import controls depends on specialised expertise. Training in provenance

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<sup>250</sup> European Commission 2017.

assessment, foreign cultural heritage and property law, valuation practices, and forensic documentation analysis is crucial in order to achieve the objectives of the regulations. Structured cooperation mechanisms and shared databases at Union level are likely to reduce fragmentation and promote consistency across Member States. It is also vital for Member States to correctly identify and understand the market specific risks associated with the art market. For example, areas where terrorist groups are active, bordering jurisdictions, or so-called transit countries, are especially vulnerable to these types of crimes.<sup>251</sup>

Second, the identified freeport and storage-sector vulnerabilities suggest tighter oversight of high-security storage and trading environments. Even where due diligence is formally required, layered corporate vehicles, trusts, and cross-border entities can obscure beneficial ownership. Enhanced oversight mechanisms, including clearer beneficial ownership verification and monitoring of intra-storage transaction, could reduce the residual opacity associated with these environments.

While freeports, customs warehouses, and similar facilities provide legitimate commercial functions, including secure storage and trade facilitation, their structural features, confidentiality, customs suspension regimes, and the possibility of trading objects without physical movement, have made them susceptible to misuse. One potential reform would be the introduction of a time limitation on how long cultural goods may remain in transit regimes or customs-suspended storage without being formally imported or re-exported. Currently, artworks may remain in such facilities for extended or indefinite periods, creating an environment where ownership transfers can occur with limited external visibility. Establishing a maximum duration for storage under transit or special regimes would reduce the risk that these facilities function as *de facto* permanent repositories for opaque wealth concealment. A time limit would encourage regular review of the legal status of stored objects, trigger compliance checks, and reduce opportunities for indefinite opacity. A time-limit for storage would also prevent pieces of art history remaining hidden from the public for indefinite periods.

Third, since disputes over provenance, title, and restitution remain legally complex and cross-border, clearer harmonised conflict-of-law rules, such as approaches aligned with *lex originis* reasoning, could increase legal certainty regarding unlawful provenance. Provenance is often inherently difficult to prove, particularly for objects that have circulated across multiple jurisdictions or through private transactions over decades. Documentation may be incomplete,

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<sup>251</sup> FATF 2023, p. 4.

lost, or contested. Even where documentation exists, assessing its authenticity and legal sufficiency may be complex. Clearer alignment of private international law principles could facilitate restitution claims and deter illicit trade.

Future reforms could therefore promote standardised digital provenance registries, incentivise systematic record-keeping by market participants, and support international cooperation with source countries to verify export legality. In order to be effective, Regulation 2019/880's license system needs to be supported by a clearance system to address problems regarding cultural objects without clear provenance. This could be done by establishing an EU agency to specifically carry out the task. While such measures cannot fully resolve historical gaps, they may gradually reduce uncertainty in future transactions.

Some scholars have suggested that the use of blockchain technology could be effective in tracking the movement and sales of arts and antiquities. Blockchain has been suggested as an effective replace to the traditional format of *catalogue raisonne*, especially in relation to authenticity issues, looted artefacts and stolen art. A thoroughly formed *catalogue raisonne* can play a significant role in provenance research, whereas, however, the use of blockchain could have the potential to form a more accurate, consistent, transparent and secure version of it.<sup>252</sup>

Creating blockchains based on existing databases of cultural goods could enhance the use of them and could therefore better the effectiveness of criminal investigations. An absence of registration in the blockchain or signalling a relevant loss would constitute of *mens rea* in the handling of property obtained by crime.<sup>253</sup> Use of blockchain technology would offer a higher standard of integrity and security compared to online databases, which are more easily corrupted.<sup>254</sup> The use of blockchain technology in cataloguing could solve issues relating to both authenticity and provenance.

Additionally, for solving repatriation disputes, a possible solution is long term loans. Due to the cost of logistics and preservation, many countries do not even want all items back. In addition, countries do benefit from their artefacts being on display in foreign museums, through the promotion of tourism. A suggested development would be for museums to seize the ownership of the cultural artefacts and negotiate object-specifically of loans with the origin countries. Another solution could be the use of replicas. For example, the Acropolis Museum in Athens

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<sup>252</sup> Bianco 2020, p. 303.

<sup>253</sup> Gannoulis *et.al.* 2023, p. 135.

<sup>254</sup> *Ibid.* p. 136.

displays plaster copies of the Parthenon Marbles.<sup>255</sup> The use of replicas would also allow museums to educate viewers on the process and value of repatriation. The Archaeological Museum of Palermo displays, along with a copy of its Parthenon Marble fragment, a signage communicating the original's return to Greece.<sup>256</sup>

Fourth, a crucial step in effectively combatting the illicit trade of cultural goods lies in the clear and consistent criminalisation of looting and smuggling within the domestic legal systems in Member States. While Union-level regulations can prohibit the import or export of unlawfully removed cultural objects and establish administrative control mechanisms, the deterrent effect of such measures ultimately depends on the existence of robust criminal sanctions at national level. Without criminal liability attached to acts such as the unlawful excavation, appropriation, or cross-border smuggling of cultural property, regulatory prohibitions risk remaining primarily administrative in character. The harmonisation of criminal law in this field strengthens the overall enforcement architecture by ensuring that individuals who engage in looting, particularly in situations of armed conflict or instability, as well as those who facilitate the illicit export and subsequent commercialisation of cultural goods, are subject to effective, proportionate, and dissuasive penalties. For example, the Finnish Criminal Code has included looting as a war crime through a reference clause to Regulation 93/1994.<sup>257</sup> Such incorporation not only signals normative condemnation of cultural property destruction and misappropriation but also creates a direct prosecutorial basis for addressing conduct that fuels illicit art markets. Strengthening and clarifying similar criminal provisions across Member States would enhance deterrence, reduce safe havens for traffickers, and ensure that the Union's broader regulatory framework is supported by substantive criminal enforcement mechanisms.

Overall, the trajectory of Union regulation reflects a gradual shift toward a more coherent and risk-sensitive framework. While legislative reform has significantly strengthened the Union framework, the inherent characteristics of the art market, opacity, complex ownership structures, subjective valuation, and evidentiary challenges in proving provenance, mean that regulation must remain adaptive, coordinated, and practically grounded. Continued development should focus not merely on expanding formal obligations, but on ensuring their effective and uniform implementation across the Union.

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<sup>255</sup> Freeman, 2025.

<sup>256</sup> *Ibid.*

<sup>257</sup> Finnish Criminal Code Chapter 1 Section 11(2)(1).

## 8. Conclusions

This thesis has examined the regulatory framework governing the art market within the European Union and assessed its capacity to address the structural vulnerabilities inherent to the trade of cultural goods. The analysis demonstrates that the European art market is no longer an unregulated space operating at the margins of legal oversight, but rather it is subject to an increasingly layered and interconnected regulatory structure, composed of anti-money laundering legislation, custom supervision, import and export controls as well as trade regulations. The extension of anti-money laundering obligations to art market participants and the adoption of Regulation 2019/880 on the import of cultural goods mark significant developments toward a more coherent Union-level framework. These reforms reflect a shift from fragmented and reactive regulation toward a risk-based and preventive approach that recognises the art market's exposure to financial crime and illicit trafficking.

The thesis has shown that structural characteristics of the art market continue to pose substantial regulatory challenges. The confidentiality traditionally associated with art transactions, the frequent use of complex ownership structures, and the subjective and opaque nature of valuation practices create an environment where transparency is inherently limited. Provenance, which is central to determining the legitimacy of cultural goods, is often difficult to prove due to incomplete documentation, historical gaps, or contested ownership histories. Unclear provenance complicates not only restitution claims but also customs assessments and anti-money laundering compliance. Even well-trained customs officials may encounter evidentiary uncertainty when attempting to determine whether an imported object was lawfully exported from its country of origin. These structural features limit the extent to which legislation alone can fully eliminate risk.

The evaluation of the legal framework therefore leads to a nuanced conclusion. While the Union framework is now more comprehensive and better suited with identifying risks, the regulatory efficiency remains dependent on consistent implementation across Member States, adequate enforcement capacity and meaningful cooperation between customs authorities, FIUs and cultural heritage bodies. Variations in national practice is likely to constrain the uniform application of the regulations.

Looking forward, the research suggests, that the art market would benefit from a focus on strengthening uniform enforcement mechanisms and structural safeguards instead of expanding the formal legislative scope. At the same time, future developments should be proportionate to

the burden they place on art market actors and compatible with fundamental rights protections, including property rights and rights regulating the protection of cultural heritage.

In conclusion, the European art market occupies a complex legal space where economic integration, cultural heritage protection and crime prevention intersect. The Union has taken substantial steps toward constructing a more coherent regulatory framework, yet the effectiveness of this framework ultimately depends on its capacity to address the market's structural opacity. Regulation can mitigate vulnerability, but it cannot entirely remove the evidentiary and valuation challenges inherent to art trade. The future of art market governance within the European Union therefore lies in balancing legal harmonisation, practical enforceability and respect for the cultural and economic functions that the art market continues to serve.

## 9. Sources

### Literature

Abrahamian, Atossa Araxia, *The Hidden Globe: How Wealth Hacks the World*. Riverhead Books 2024.

Boll, Dirk. *Art for Sale: A Candid View of the Art Market*. Hatje Cantz 2011.

Herman, Alexander. *The Parthenon Marbles Dispute*. Bloomsbury Publishing 2023.

Poulle, Jean-Baptiste – Kannan, Arut – Spitz, Nicolas – Kahn, Sandra – Sotiropoulou, Anastasia. *EU Banking and Financial Regulation*. Elgar Financial Law and Practice 2024.

Siclari, Domenico. *The New Anti-Money Laundering Law: First Perspectives on the 4<sup>th</sup> European Union Directive*. Springer 2016.

Towse, Ruth – Hernández, Trilce Navarrete. *Handbook of Cultural Economics*. 3<sup>rd</sup> edition. Edward Elgar Publishing Limited 2020.

Veblen, Thorsten, *The Theory of the Leisure Class*. The Macmillan Company 1899.

Velthuis, Olav. *Talking prices: Symbolic meanings of prices on the market for contemporary art*. Princeton University Press 2005.

Wilson, Martin. *Art Law and Business of Art*. 2<sup>nd</sup> edition. Elgar Practical Guides 2022.

### Doctrine

Ardenne, Paul – Vale, Michel. *The Art Market in the 1980s*. *The Political Economy of Art* 25 (2) 1995, p. 100-128.

Baranello, A.M. *Money laundering and the art market: Closing the regulatory gap*. *Seton Hall Legislative Journal* 45 (3) 2021, p. 695-738.

Burroughs, Timothy. *US and EU Efforts to Combat International Money Laundering in the Art Market are no Masterpiece*. *Vanderbilt Law Review* 52 (4) 2019, p. 1062-1096.

Campfens, Evelien. *Cross-border claims to looted art*. Policy Department for Citizens' Rights and Constitutional Affairs 2023.

[https://www.europarl.europa.eu/RegData/etudes/STUD/2023/754126/IPOL\\_STU\(2023\)754126\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/754126/IPOL_STU(2023)754126_EN.pdf) (17.2.2026).

David, Géraldine – Li, Yuexin – Oosterlinck, Kim – Renneboog, Luc. *Art in time of crisis*. Economic History Review 2024.

<https://research.tilburguniversity.edu/en/publications/11f037eb-5454-46ee-82a8-7e4ca9b00129> (18.2.2026).

Fernando, Francisca – Berkhout, Richard. *Unmasking Control: A Guide to Beneficial Ownership Transparency*. International Monetary Fund 2022.

Freeman, John. *Repatriation in Context: The Case for Cooperation*. Center for art law 2025. <https://itsartlaw.org/art-law/repatriation-in-context-the-case-for-cooperation/> (17.2.2026).

Freeman, Nate. *The Rise and Fall of Mary Boone*. Artsy 2019.

<https://www.artsy.net/article/artsy-editorial-rise-fall-mary-boone-revolutionary-art-dealer-going-prison-tax-fraud> (17.2.2026).

Freeman, Nate. *Why Leo Castelli Paid his Artists Even When They Weren't Making Work*. Artsy 2018. <https://www.artsy.net/article/artsy-editorial-leo-castelli-changed-art-market-forever> (17.2.2026).

Geraldin, David. *Art as an investment in a historical perspective*. CentER Dissertation Series 2016. <https://repository.tilburguniversity.edu/server/api/core/bitstreams/4e7ab730-f481-4e61-86c9-e270c3dff00b/content> (18.2.2026).

Hufnagel, Saskia – King, Colin. *Anti-money laundering regulation and the art market*. Legal Studies 40 (1) 2020, p. 131-150.

Korver, Ron. *Money laundering and tax evasion risks in free ports*. European Parliamentary Research Service 2018.

[https://www.europarl.europa.eu/cmsdata/155721/EPRS\\_STUD\\_627114\\_Money%20laundrying-FINAL.pdf](https://www.europarl.europa.eu/cmsdata/155721/EPRS_STUD_627114_Money%20laundrying-FINAL.pdf) (17.2.2026).

Kurtz, Birgit – von Brühl, Friederike – Kleinknecht, Gregor. *Standards of Care in the Art Market: A Comparative Study on What is Expected of Buyers, Sellers and Consignors in the United States, Germany and England*. Art Antiquity and Law XXI (1) 2016, p. 1-31.

Merryman, John Henry. *Two Ways of Thinking About Cultural Property*. The American Journal of International Law 80 (4) 1986, p. 831-852.

Munnelly, Alice. *Compliant or complicit? Security implications of the art market*. European Union Institute for Security Studies 2021.

Renneboog, Luc – Spaenjers, Christophe. *Buying Beauty: On Prices and Returns in the Art Market*. HEC Paris 2012. <http://dx.doi.org/10.2139/ssrn.1352363> (18.2.2026).

Saleeby, Cates. *Recent EU Developments in Art Law and Cultural Heritage*. Center for art law 2019. <https://itsartlaw.org/spotlight/recent-eu-developments-in-art-law-and-cultural-heritage/> (17.2.2026).

Thompson, Erin – Zucker, Steven – German, Senta. *Euphronios, Sarpedon Krater*. Smarthistory 2017. <https://smarthistory.org/euphronios-krater/> (17.2.2026).

### **Official sources**

COM(2017) 340 final. Report from the Commission to the European Parliament and the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities. Brussels 26.6.2017.

COM(2022) 554 final. Communication from the Commission to the European Parliament and the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities. Brussels, 27.10.2022.

COM(2022) 800 final. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Action Plan against Trafficking in Cultural Goods. Brussels, 13.12.2022.

Commission for Looted Art in Europe, Washington Conference Principles on Nazi-Confiscated Art. Washington, DC, 3.12.1998.

Council of the European Union, Council Resolution on the creation of an informal network of law enforcement authorities and expertise competent in the field of cultural goods (EU CULTNET). Brussels, 4.10.2012.

Directorate-General for Taxation and Customs Union, Free Zones. [https://taxation-customs.ec.europa.eu/customs/free-zones\\_en](https://taxation-customs.ec.europa.eu/customs/free-zones_en) (17.2.2026).

European Central Bank, Economic and Monetary Union (EMU). <https://www.ecb.europa.eu/ecb/history-arts-culture/history/emu/html/index.en.html> (17.2.2026).

European Commission, Commission presents Action Plan to strengthen the fight against terrorist financing. Strasbourg, 2016.

European Commission, Study of the impact of free zones and proposals for guidelines on their future modernisation in light of the European Green Deal. Luxembourg, 2023.

European Commission, Questions and Answers on the illegal import of cultural goods used to finance terrorism. [https://ec.europa.eu/commission/presscorner/detail/en/memo\\_17\\_1954](https://ec.europa.eu/commission/presscorner/detail/en/memo_17_1954) (17.2.2026).

European Court of Human Rights, Guide on Article 1 of Protocol No. 1 to the European Convention on Human Rights. 2020.

Europol, Operation Pandora V. Global operation against trafficking in cultural goods. 2020.

Europol, Operation Sardica: Disrupting illicit trafficking of cultural property. 2022.

Europol, Over 41 000 artefacts seized in global operation targeting the illicit trafficking of cultural goods. 2018.

HE 4/2025 vp. Hallituksen esitys eduskunnalle laiksi Museovirastosta annetun lain muuttamisesta.

Interpol, Assessing Crimes Against Cultural Property 2020. 2021.

Library of the European Parliament (Manko, Rafal). The notion of ‘consumer’ in EU law. 2013.

National Crime Agency, Financial Sanctions Evasion, Money Laundering & Cultural Property Trafficking Through the Art Storage Sector. 2024.

OECD/EUIPO, Trade in Counterfeit Goods and Free Trade Zones. Paris, 2018.

OECD/EUIPO, Trends in Trade in Counterfeit and Pirated Goods. Paris, 2019.

P8\_TA(2015)0179. European Parliament resolution of 30 April 2015 on the destruction of cultural sites perpetrated by ISIS/Da’esh. Strasbourg, 2015.

Patentti- ja rekisterihallitus, Who is a beneficial owner?

[https://www.prh.fi/en/companiesandorganisations/beneficial\\_owner\\_details/who\\_is\\_a\\_beneficial\\_owner.html](https://www.prh.fi/en/companiesandorganisations/beneficial_owner_details/who_is_a_beneficial_owner.html) (17.2.2026).

The Financial Action Task Force – Egmont Group, Trade-Based Money Laundering. Paris, 2020.

The Financial Action Task Force, 40 Recommendations. 2003.

The Financial Action Task Force, Money Laundering and Terrorist Financing in the Art and Antiquities Market. Paris, 2023.

UNESCO, Culture in crisis: policy guide for a resilient creative sector. 2020.

United States Senate, The art industry and U.S. Policies that undermine sanctions.

### **Case law**

Court of Justice of the European Union, *WM and Sovim SA v Luxembourg Business Registers*, judgment 22.11.2022 (Grand Chamber).

International Criminal Court, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, judgment 27.9.2026 (Trial Chamber VIII).

The European Court of Human Rights, *Beyeler v. Italy*, judgment 5.1.2000.

The European Court of Human Rights, *The J. Paul Getty Trust and Others v. Italy*, judgment 2.5.2024 (Section I).

The European Court of Human Rights, *Sylogos Ton Athinaion v. The United Kingdom*, judgment 31.5.2016 (Section I).

### **Legislation**

Commission Implementing Regulation (EU) 2021/1079 of 24 June 2021 laying down detailed rules for implementing certain provisions of Regulation (EU) 2019/880 on the introduction and the import of cultural goods.

Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods.

The Council of Europe. (1952). Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Council of the European Union. (2003). Council Regulation (EC) No 1210/2003 of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No 2465/96.

The Council of the European Union. (2009). Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods (Codified version).

The European Parliament and the Council of the European Union. (1998). Directive 98/6/EC of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers.

The European Parliament and the Council of the European Union. (1999). Directive 1999/44/EC of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees.

The European Parliament and the Council of the European Union. (2011). Directive 2011/83/EU of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.

The European Parliament and the Council of the European Union. (2014). Directive 2014/60/EU of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast).

The European Parliament and the Council of the European Union. (2015). Directive (EU) 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012, and repealing Directive 2005/60/EC and Commission Directive 2006/70/EC.

The European Parliament and the Council of the European Union. (2018). Directive (EU) 2018/843 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.

The European Parliament and the Council of the European Union. (2019). Regulation (EU) 2019/880 of 17 April 2019 on the introduction and the import of cultural goods.

The European Parliament and the Council of the European Union. (2024). Directive (EU) 2024/1640 of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

The European Union. (1957). Treaty establishing the European Economic Community.

The European Union. (2012). Consolidated version of the Treaty on the European Union.

The European Union. (2012). Consolidated version of the Treaty on the Functioning of the European Union.

UNESCO. (1954). Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention.

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

UNIDROIT. (1995). UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects.

## Other

Art Basel and UBS (McAndrew, Clare), *The Art Market Report 2024 by Arts Economics*. Basel 2024.

Art Basel and UBS (McAndrew, Clare), *The Art Market Report 2025 by Arts Economics*. Basel 2025. (McAndrew 2025 a)

Art Basel and UBS (McAndrew, Clare), *The Art Basel & UBS Survey of Global Collecting 2025 by Arts Economics*. Basel 2025. (McAndrew 2025 b)

Artnet (Kazakina, Katya), *The High-Flying Basquiat Market Fell Off a Cliff Last Year. Why?*. 2023. <https://news.artnet.com/market/the-high-flying-basquiat-market-fell-off-a-cliff-last-year-why-2238497> (17.2.2026).

Artnet (Whiddington, Richard), *Art Bites: How a 20-Million Art Sale Was Won in a Game of Rock Paper Scissors*. 2024. <https://news.artnet.com/art-world/art-bites-christies-rock-paper-scissors-2464119> (17.2.2026).

Britannica Money, The growth of the auction market. <https://www.britannica.com/money/art-market/The-growth-of-the-auction-market> (20.2.2026).

Business Insider (Udland, Myles), *LARRY FINK: Contemporary art and luxury apartments are the new gold*. 2015. <https://www.businessinsider.com/larry-fink-on-stores-of-value-2015-4> (17.2.2026).

Cleveland Museum of Art. *Declaration on the Importance and Value of Universal Museums*. 2003.

Foord, Roland, *The EU Regulation on the Introduction and Import of Cultural Goods: A deterrent to international money laundering and terrorist financing, or a serious impediment to lawful EU art market trade?*. Stephenson Harwood, 2025.

<https://www.stephensonharwood.com/media/0oebylmd/stephenson-harwood-llp-art-law-recent-developments-january-2025-pdf.pdf> (17.2.2026).

Gronemeyer, Martin. *Freeports – The Beauty of Tax Free Storage*, 2021.

<https://www.youtube.com/watch?v=CKlor8vuiEY> (17.2.2026).

Luxembourg Times, *Art consultant under investigation in connection with Picasso thefts*.

14.7.2016. <https://www.luxtimes.lu/luxembourg/art-consultant-under-investigation-in-connection-with-picasso-thefts/1230464.html> (17.2.2026).

New York Post (Ibrahim, Samantha), *Kim Kardashian’s Met Gala photo helped solve looted gold Egyptian coffin case*. 18.10.2021. <https://nypost.com/2021/10/18/kim-kardashians-met-gala-pic-helped-solve-looted-egyptian-coffin-case/> (17.2.2026).

RPC, Claims against auctioneers: (not) going going gone!

<https://www.rpclegal.com/thinking/professional-and-financial-risks/claims-against-auctioneers---not-going-going-gone/> (22.2.2026).

The Art Fund Association LLC, What Are Art Funds.

[https://www.artfundassociation.com/\\_what\\_are\\_art\\_funds/basic\\_af.html](https://www.artfundassociation.com/_what_are_art_funds/basic_af.html) (17.2.2026).

The Cultural Heritage At Risk Database (CHARD). <https://www.chardfoundation.org> (17.2.2026).

The Neo Art Magazine (Mandal, Proteek), *EU Art Market Regulation: Your Essential Survival Guide for the 2025 Crisis*. 7.7.2025. <https://tnamag.xyz/art-market/eu-art-market-regulation-guide/> (25.2.2026)

The New York Times (Moynihan, Colin), *The Art Dealer Mary Boone Is Sentenced to Prison for Tax Fraud*. 14.2.2019. <https://www.nytimes.com/2019/02/14/arts/design/mary-boone-sentencing.html> (17.2.2026).

The New York Times (Reyburn, Scott), *What the Panama Papers Reveal About the Art Market*.

11.4.2016. <https://www.nytimes.com/2016/04/12/arts/design/what-the-panama-papers-reveal-about-the-art-market.html> (17.2.2026).

What a Portrait (Ajayan, Merlin), *Top 21 Most Expensive Paintings Ever Sold (2026 Updated)*. 2026.