Return of cultural objects unlawfully removed from the territory of a Member State

2000/0332(COD) - 30/07/2009 - Follow-up document

This is the third report from the Commission reviewing the application of Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State. It covers the period 2004-2007.

Council Directive 93/7/EEC introduced mechanisms for cooperation between the national authorities and a legal procedure for the return of cultural objects taken unlawfully from the territory of a Member State. Pursuant to the EC Treaty, **Member States retain the right to define cultural goods** which they consider to be national treasures and to take measures to protect them. Directive 93/7/EEC is therefore a measure to support the internal market with the aim of reconciling the operation of the internal market with a guarantee for the Member States that their cultural objects with the status of national treasures of artistic, historic or archaeological value will be protected.

In line with the conclusions of the last two assessment reports, most of the Member States take the view that the Directive is a useful tool for the recovery of certain cultural objects removed unlawfully from the territory of a Member State, and for protecting heritage. These Member States acknowledge that the Directive has a **preventive effect** and discourages the unlawful removal of objects. However, the Member States regret that the Directive has certain restrictions, such as the one-year deadline for initiating recovery proceedings.

Regarding **administrative cooperation and the exchange of information** on the Directive, the Commission has seen an improvement both within and between the Member States. However, it has noted some shortcomings, on the one hand in the collection and exchange of information between the authorities responsible for implementing the Directive and the other national authorities responsible for protecting cultural objects and, on the other hand, between the various national authorities responsible for the Directive. The Commission therefore suggests that the Member States take the necessary action to improve cooperation between the various national authorities. In order to support them, the Commission will update the guidelines on administrative cooperation and publish lists of the national authorities responsible for implementing the Directive. To this end, the Commission would emphasise the Member States' obligation to notify it every time the national authority designated changes so that the list published in the Official Journal of the European Union can be updated.

Regarding **actions for recovery**, the Commission notes that the small number of proceedings launched could also be the result of successful administrative cooperation and, in particular, of negotiations for amicable out-of-court settlements. However, there is a consensus among the Member States that the current one-year deadline is too short, rendering the Directive less effective, and that is should be extended. On the other hand, there is no similar consensus regarding other proposals for amending the Directive, for example the addition of other categories of goods to the list in the Annex, or the amendment of the financial thresholds.

Next step: the Commission takes the view that the amendment of the Directive should be considered. It is of the opinion that any proposal to amend the Directive should be analysed in depth by the national authorities responsible for implementing the Directive with regard to its impact. Accordingly, the Commission will suggest to the Committee on the Export and Return of Cultural Goods that an ad hoc

working group be created under its auspices in 2009. The role of this group will be to identify problems associated with the application of the Directive and to suggest solutions which are effective and acceptable to all the Member States with a view to possibly amending the Directive.