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

2013/0162(COD) - 30/05/2013 - Legislative proposal

PURPOSE: to contribute to the protection of cultural objects in the context of the internal market by enabling Member States to secure the return of any cultural object which is classified as a national treasure.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: The European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State1 was adopted in 1993, when the internal frontiers were abolished, in order to protect the Member States' cultural objects that are classified as national treasures.

The assessments of the Directive have shown that the **effectiveness of this instrument is limited** due to: (i) the conditions making objects classified as national treasures eligible for return; (ii) the short time available for bringing return proceedings; (iii) the cost of compensation. The need for improved administrative cooperation and consultation between the central authorities in order to enable them to better implement the Directive has been stressed.

UNESCO's Convention of 1970 and the UNIDROIT Convention of 1995 on Stolen or Illegally Exported Cultural Objects have not been ratified by all Member States.

Despite the variety of instruments available, **trafficking in cultural objects has become one of the most widespread forms of illegal trade**.

Noting the major impact this problem has on the Member States, the Council of the European Union concluded on 13 and 14 December 2011 that measures needed to be taken to make preventing and combating crime against cultural objects more effective.

IMPACT ASSESSMENT: this proposal is accompanied by an executive summary of the impact assessment. The preferred approach results in a combination of options 2 (Promoting the use of common tools by the central authorities) and 3 (Revision of Directive 93/7/EEC).

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the aim of this proposal is to enable Member States to secure the **return of any cultural object which is classified as a national treasure and has been unlawfully removed from their territory since 1993**.

The changes made to the provisions of Directive 93/7/EEC concern:

- extending its scope to cover all cultural objects classified as national treasures within the meaning of Article 36 of the Treaty;
- prescribing the use of the Internal Market Information (IMI) system for administrative cooperation and information exchanges between the central authorities;
-

extending the time given to the authorities of the requesting Member State to check the nature of the cultural object found in another Member State;
- extending the time-limit for bringing return proceedings;
- indicating which authority of the requesting Member State starts the period for bringing return proceedings;
- stipulating that the possessor has the burden of proof that due care and attention was taken when the cultural object was acquired;
- indicating the common criteria for interpreting the concept of due care and attention;
- extending the time-limit for the reports assessing and reviewing the application of the Directive (these shall be drawn up every five years).

BUDGETARY IMPLICATIONS: the proposal involves only administrative costs. The impact on the EU budget is estimated at EUR 1.25 million for 2015-2019.