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

2013/0162(COD) - 28/01/2014 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Culture and Education adopted the report by Marie-Christine VERGIAT (GUE/NGL, FR) on the proposal for a directive of the European Parliament and of the Council on the return of cultural objects unlawfully removed from the territory of a Member State (recast)

The committee recommended that the position of Parliament adopted in first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Purpose: the directive aims to ensure the physical return of cultural objects which are classified or defined by a Member State as a **national treasure possessing artistic, historic or archaeological value** within the meaning of Article 36 of the Treaty, which have been unlawfully removed from the territory of a Member State, **even if they originate from illegal excavations.**

It is recalled Article 36 of the Treaty on the Functioning of the European Union (TFEU) empowers the Union to take steps to protect cultural objects defined or classified as national treasures, in the context of the opening-up of the Union's internal borders.

This Directive applies irrespective of whether the object in question was classified or defined by a Member State as a ‘national treasure’ before or after its unlawful removal from the territory of that Member State.

‘Cultural object’ is defined as an object which: is **classified or defined**, before or after its unlawful removal from the territory of a Member State, **as being among the ‘national treasures possessing artistic, historic or archaeological value’** under national legislation or administrative procedures within the meaning of Article 36 of the Treaty. The directive will thus cover cultural objects such as objects of historical, paleontological, ethnographic or numismatic interest or scientific value, whether or not they form part of a public or other collection or are single items, provided that they are classified or defined as national treasures.

Tasks of Member States’ competent authorities: the proposal provides that national authorities must cooperate and stresses the need for consultation between competent authorities. The amended text states that the latter must:

- disseminate all information concerning cultural objects stolen or unlawfully removed from their territory which are listed in their registers or similar documents;

- **notify** the Member States concerned, where a cultural object is found in their own territory and there are reasonable grounds for believing that it has been unlawfully removed from the territory of another Member State;

- enable the competent authorities of the requesting Member State to check that the object in question is a cultural object, provided that the check is made within **six months** of the notification. With that aim in view, **the requested Member State must reply to the requesting Member State as quickly as possible**, so that the latter can carry out the check within the time limit.

Exchange of information: the report specified the exchanges of information, including those referred to in provisions relating to illegally removed cultural objects, should be conducted using the Internal Market Information System (IMI), in accordance with the applicable legal provisions on the **protection of personal data and privacy.**

However, the competent central authorities would be able to use **other means of communication** in addition to the IMI, in particular where the specific measures required in the context of a return procedure make this essential.

However, in the case of objects forming part of public collections, and objects listed in the inventories of ecclesiastical or other religious or lay institutions in the Member States where they are subject to special protection arrangements under national law, return proceedings shall be subject to a time-limit of 75 years.

Compensation for the possessor: the text stated that the possessor might not claim the compensation if he failed to exercise the level of due care and attention required by the circumstances.

Extension of the scope to other cultural objects: each Member State may agree to extend the obligation to return cultural objects to objects other than those defined in the directive, including in respect of cultural objects unlawfully removed from the territory of other Member States prior to 1 January 1993.

Reports: Member States shall send the Commission every five years, and for the first time on **1 December 20**17 at the latest, a report on the application of the directive.

The Commission shall send the European Parliament, the Council and the European Economic and Social Committee, every five years, and for the first time on **1 July 2018** at the latest, a report reviewing the application of the Directive. The report shall be accompanied by any appropriate proposals for the revision of the directive.

Advisory committee: Members wanted an advisory committee of national experts to be established for the purpose of examining any issues relating to the implementation of the Directive, in particular the adaptation of the IMI system to take account of the specific nature of cultural objects, the exchange of information between Member States and good practices implemented by them.