Basic information

2013/0162(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Return of cultural objects unlawfully removed from the territory of a Member State. Recast Repealing Directive 96/100/EC 1995/0254(COD) Repealing Directive 2001/38/EC 2000/0332(COD) Amending Regulation (EU) No 1024/2012 2011/0226(COD) **Subject** 2.80 Cooperation between administrations 4.45.06 Heritage and culture protection, movement of works of art	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CULT Culture and Education	VERGIAT Marie-Christine (GUE/NGL)	25/06/2013
	Shadow rapporteur SCURRIA Marco (PPE) PALIADELI Chrysoula (S&D) TAKKULA Hannu (ALDE) BENARAB-ATTOU Malika (Verts/ALE) MIGALSKI Marek Henryk (ECR)	

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	LEHNE Klaus-Heiner (PPE)	19/06/2013

Council of the European Union

Council configuration	Meetings	Date
Foreign Affairs	3311	2014-05-08
Education, Youth, Culture and Sport	3275	2013-11-25

European Commission

Commission DG	Commissioner
Internal Market, Industry, Entrepreneurship and SMEs	TAJANI Antonio

European Economic and Social Committee	

Key events

Date	Event	Reference	Summary
30/05/2013	Legislative proposal published	COM(2013)0311	Summary
10/06/2013	Committee referral announced in Parliament, 1st reading		
25/11/2013	Debate in Council		Summary
21/01/2014	Vote in committee, 1st reading		
28/01/2014	Committee report tabled for plenary, 1st reading	A7-0058/2014	Summary
15/04/2014	Debate in Parliament		
16/04/2014	Decision by Parliament, 1st reading	T7-0416/2014	Summary
16/04/2014	Results of vote in Parliament		
08/05/2014	Act adopted by Council after Parliament's 1st reading		
15/05/2014	Final act signed		
15/05/2014	End of procedure in Parliament		
28/05/2014	Final act published in Official Journal		

Technical information

Procedure reference	2013/0162(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 96/100/EC 1995/0254(COD) Repealing Directive 2001/38/EC 2000/0332(COD) Amending Regulation (EU) No 1024/2012 2011/0226(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	CULT/7/12867

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary

Committee draft report		PE519.705	11/11/2013	
Amendments tabled in committee		PE524.503	09/12/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0058/2014	28/01/2014	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0416/2014	16/04/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00055/2014/LEX	15/05/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2013)0311	30/05/2013	Summary
Document attached to the procedure	SWD(2013)0188	30/05/2013	
Document attached to the procedure	SWD(2013)0189	30/05/2013	
Commission response to text adopted in plenary	SP(2014)471	09/07/2014	
Follow-up document	COM(2021)0705	18/11/2021	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2013)0311	25/07/2013	
Contribution	ES_PARLIAMENT	COM(2013)0311	27/07/2013	
Contribution	IT_SENATE	COM(2013)0311	06/08/2013	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES4678/2013	18/09/2013	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Corrigendum to final act 32014L0060R(01) OJ L 147 12.06.2015, p. 0024	Summary
Directive 2014/0060 OJ L 159 28.05.2014, p. 0001	Summary

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.

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.

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

2013/0162(COD) - 25/11/2013

The Council adopted a **general approach** on the proposal for a directive on the return of cultural objects unlawfully removed from the territory of a member state.

The Council accepted the main changes introduced by the Commission proposal into the current legislation, such as:

- **deletion of the annex**, which specifies categories of cultural objects eligible for return, together with financial and age thresholds. Thus, **any cultural object** that a member state defines as a national treasure will be eligible for return;
- **extension of deadlines** so that member states would have five months, instead of the current two months, to check that the object discovered in another member state is a national treasure, and three years instead of one year to initiate the return proceedings before the competent national court;
- **placing the burden of proof on the possessor** for compensation purposes;
- **use of the** Internal Market Information System to improve administrative cooperation and information exchanges between national authorities.

Given the proposal to remove the annex, the reference to the Committee on the export and return of cultural goods which was responsible for its application has been deleted. However, the Council wished to keep a **platform for the exchange of experience** and best practices in this field and requested the Commission to establish an **expert group** for that purpose. Furthermore, the Council extended the period for transposition of the directive into national law to **18 months** instead of the 12 months proposed by the Commission.

The adoption of a general approach has paved the way for the incoming Greek Presidency to start informal negotiations with the European Parliament with the aim of adopting the proposal before the end of this Parliament's term. The competent EP Committee (CULT) vote on the proposal is scheduled for 21 January 2014.

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

2013/0162(COD) - 15/05/2014 - Final act

PURPOSE: to allow the return of cultural objects classified or defined by a Member State as being among national treasures, which have been unlawfully removed from the territory of that Member State.

LEGISLATIVE ACT: Directive 2014/60/EU of the European Parliament and of the Council on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012 (Recast)

CONTENT: this Directive recasts Directive 93/7/EEC and applies to **the return of cultural objects classified or defined by a Member State as being among national treasures**, which have been unlawfully removed from the territory of that Member State after 1 January 1993.

Extension of the scope of the legislation: the scope of the Directive is extended to **all cultural objects** classified or defined by 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 TFEU.

The Directive should thus cover objects of historical, paleontological, ethnographic, numismatic interest or scientific value, whether or not they form part of public or other collections or are single items, and whether they originate from regular or clandestine excavations, provided that they are classified or defined as national treasures.

Furthermore, cultural objects classified or defined as national treasures should no longer have to belong to categories or comply with thresholds related to their age and/or financial value in order to qualify for return under the Directive.

Administrative cooperation between Member States: the Directive requires that central authorities cooperate efficiently with each other and exchange information relating to unlawfully removed cultural objects through the use of the Internal Market Information System ('IMI') provided for by Regulation (EU) No 1024/2012 of the European Parliament and of the Council. In order to improve cooperation, **a module of the IMI system specifically customised** for cultural objects is established.

The exchange of information will be conducted using the IMI in accordance with the applicable legal provisions on the **protection of personal data and privacy,** without prejudice to the possibility for the competent central authorities to use other means of communication in addition to the IMI.

Extension of time-limits:

- Member States will have six months, instead of the current two months, to **check** that the object discovered in another Member State is a national treasure. This longer period should allow Member States to take the necessary measures to preserve the cultural object and, where appropriate, prevent any action to evade the return procedure.

- The time-limit for bringing **return proceedings** is also extended to three years (rather than one year) after the Member State from whose territory the cultural object was unlawfully removed became aware of the location of the cultural object and of the identity of its possessor or holder.

Such proceedings may, in any event, **not be brought more than 30 years** after the object was unlawfully removed from the territory of the requesting Member State.

However, in the case of **objects forming part of public collections, and objects belonging to inventories of ecclesiastical or other religious 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: where return of the object is ordered, the Directive provides that the competent court in the requested Member State shall award the possessor fair **compensation according to the circumstances of the case, provided** that the possessor demonstrates that he exercised due care and attention in acquiring the object.

Report: by 18 December 2015 and every five years thereafter, Member States shall submit to the Commission a report on the application of this Directive. Every five years the Commission shall present a report reviewing the application and effectiveness of this Directive, accompanied, if necessary, by appropriate proposals.

ENTRY INTO FORCE: 17.06.2014.

TRANSPOSITION: by 18.12.2015.

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

2013/0162(COD) - 16/04/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 626 votes to 40 with 8 abstentions, a legislative resolution 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).

Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary were the result of a compromise between Parliament and Council. They amend the Commission's proposal as follows:

Purpose: Parliament and Council agreed that the directive applied to the return of cultural objects **defined or classified by a Member State as being among national treasures**, which had been unlawfully removed from the territory of that Member State.

'Cultural object': this was defined as means an object which was classified or defined by a Member State, before or after its unlawful removal from the territory of that 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 TFEU.

Tasks of competent national authorities: Member States' central authorities shall cooperate and promote consultation between the Member States' competent national authorities. The latter shall upon application by the requesting Member State, seek a specified cultural object, which has been unlawfully removed from its territory, identifying the possessor and/or holder. It was specified that the application must include **all information needed to facilitate the search, with particular reference to the actual or presumed location of the object.**

In order to cooperate and consult with each other, the central authorities of the Member States will use a module of the Internal Market Information System ("IMI") **specifically customised for cultural objects**. They may also use the IMI to disseminate relevant case-related information concerning cultural objects, which had been stolen or unlawfully removed from their territory.

Exchange of information: the amendments stipulated that the exchange of information should be conducted using the IMI in accordance with the applicable legal provisions on the **protection of personal data and privacy**. However, competent central authorities may use other means of communication in addition to the IMI.

In order to maintain the platform for the exchange of experience and good practices on the implementation of the Directive among Member States, the Commission should set up an **expert group**, composed of experts from the Member States' central authorities responsible for the implementation of the Directive, The group should be involved, inter alia, in the process of customising a module of the IMI system for cultural objects.

Limitation: in the case of objects forming part of public collections, and **objects belonging to inventories of ecclesiastical or other religious institutions** in the Member States where they were subject to special protection arrangements under national law, return proceedings should be subject to a time limit of 75 years.

Compensation for possessor: where return of the object was ordered, the competent court in the requested Member State should award the possessor **fair compensation** according to the circumstances of the case, provided that the possessor demonstrated that he exercised due care and attention in acquiring the object.

Application to other cultural objects: the amended text stated that it should be possible for Member States to return cultural objects other than those defined in the directive.

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

2013/0162(COD) - 15/05/2014 - Corrigendum to final act

Corrigendum to Directive 2014/60/EU of the European Parliament and of the Council 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 (*Official Journal of the European Union L 159 of 28 May 2014*).

In the title:

- for: ‘Directive 2014/60/EU of the European Parliament and of the Council 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)’,
- **read**: ‘Directive 2014/60/EU of the European Parliament and of the Council 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) (Text with EEA relevance)’.

In Article 17 (Report) paragraph 1:

- for: ‘1. By 18 December 2015 and every five years thereafter, Member States shall submit to the Commission a report on the application of this Directive.’
- **read**: ‘1. By 18 December 2020 and every five years thereafter, Member States shall submit to the Commission a report on the application of this Directive.’