



Permanent Mission of Italy  
to the United Nations



Permanent Mission  
of the Republic of Cyprus  
to the United Nations

## **Special event on “Promoting and Strengthening the international legal framework for the protection of cultural heritage-the 1995 UNIDROIT Convention and other relevant legal instruments and initiatives”**

**(New York, Tuesday, 28 February 2017)**

### Summary

A special event on Promoting and strengthening the international legal framework for the protection of cultural heritage took place on Tuesday, 28 February 2017, at the UN Headquarters, co-organized by the Missions of Cyprus and Italy to the UN and by the International Institute for the Unification of Private Law (UNIDROIT).

The event was opened by the Permanent Representative of Cyprus to the UN, Ambassador Kornelios Korneliou and the Deputy Permanent Representative of Italy to the UN, Ambassador Inigo Lambertini. Keynote speakers at the event were Mr. José Angelo Estrella-Faria, Secretary-General of UNIDROIT and Mrs. Gabriella Battaini-Dragoni, Deputy Secretary-General of the Council of Europe. A panel of experts on the matter featured Mr. Gilles Dutertre, Senior Trial Lawyer of the International Criminal Court in the Al-Mahdi Case, Mrs. Marie Paule Roudil, the Director of the UNESCO Liaison Office in New York, Mr. Emmanuel Roux, Special Representative of INTERPOL to the United Nations and Ms. Yu Ping Chan, expert at the UNODC New York Office.

The event was organized in the framework of the special interest of Cyprus and Italy to issues of cultural property protection. Cyprus’ unfortunate experience in the looting and destruction of its cultural heritage has led the country to prioritize the issue in its foreign policy activities. In this framework, Cyprus has promoted a resolution by the Human Rights Council on cultural rights and the protection of cultural heritage in September 2016, with cross-regional support. The protection of cultural property is also a priority issue for Cyprus for the duration of its Chairmanship of the Committee of Ministers of the Council of Europe (November 2016-May 2017).

Italy, with a rich cultural heritage and significant expertise, has traditionally been at the forefront on issues related to cultural heritage protection. In 2015, Italy and Jordan, together with INTERPOL, UNESCO and UNODC formed a partnership titled “Protecting Cultural Heritage-An Imperative for Humanity: Acting Together Against the Destruction and Trafficking of Cultural Property by Terrorist Groups and Organized Crime”. The partnership aims at strengthening the international resolve to implement international

legal instruments and to increase international cooperation for the protection of cultural heritage.

Main issues discussed at the event:

- Views were exchanged regarding differences in domestic legal systems hindering the effective restitution of illicitly traded cultural property and the addressing of the trafficking in cultural objects (transnational nature of trafficking and the existence of different national jurisdictions, variation in rules on good faith acquisition and the extent of the protection of property rights, variation on limitation periods and on provisions related to the right to compensation).
- Suggestions as to the ways to address these issues were made. In this regard, the importance of effective implementation of relevant international legal instruments, of adopting model laws and the importance of international cooperation through the work of international organisations were highlighted.
- As stressed by keynote speaker, Mr. Estrella-Faria, ratification of the self-executing 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects is key in improving internationally both prevention of stealing or illegally exporting cultural objects and restitution of such cultural objects. The 1995 UNIDROIT Convention complements the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property from the perspective of private law. The Convention contains pioneering provisions as regards the burden of proof and the exercising of due diligence by a good faith possessor, in order to be allowed compensation; the statute of limitations for claiming the restitution of a cultural object for cultural heritage of a State that lies at the heart of its national identity and the provisions on illicit excavations and archaeological objects. Furthermore, the strong influence of the 1995 UNIDROIT Convention on bilateral cultural agreements, on European Union relevant legislation and on national legislations of States was also underlined.
- Keynote speaker Mrs. Battaini-Dragoni highlighted the longtime cooperation between the Council of Europe and UNIDROIT and the support of the Committee of Ministers of the Council of Europe to the 1995 UNIDROIT Convention. She furthermore informed of the new Convention of the Council of Europe, currently under negotiation, on Offences related to Cultural Property, which will criminalize offences related to cultural property. The Convention, which will be fully compatible with existing binding international legal standards, is expected to open for signing in Nicosia, Cyprus in May 2017 and all States can become state parties.
- The Director of the UNESCO Liaison Office in New York highlighted the significance of prevention, strengthened international cooperation and complementarity of efforts and the need for a continuous outreach call to promote awareness and further ratification of international instruments. The Director referred to the 1970 UNESCO

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which was the first ever international legal instrument dealing exclusively with the illicit trafficking of cultural property and which counts today 131 States Parties. Mrs. Roudil also underlined the valuable, decades-long close cooperation and successful partnership between UNESCO and UNIDROIT, which led, inter alia, to the 1995 UNIDROIT Convention, at UNESCO's request, as well as to the UNESCO-UNIDROIT Model Provisions on State Ownership of Undiscovered Cultural Objects.

- The Senior Trial Lawyer of the International Criminal Court in the Al-Mahdi Case elaborated on the importance of the judgement in this case as the first of its kind at the International Criminal Court where a person has been found guilty of the war crime of directing an attack against historic and religious buildings. He stated that it is a clear message to everyone that such crimes are not tolerated and cannot go unpunished. Mr. Dutertre also informed of the importance of the issue for the prosecutor of the ICC, Mrs. Fatou Bensouda. He added that the Prosecutor has set up a working group in charge of preparing a policy paper on the prosecution of crimes against cultural property.
- The Special Representative of the INTERPOL Office in New York stressed the need to make full use of the legal framework in order to enhance efforts in the field of law enforcement. Mr. Roux referred to initiatives and tools developed by INTERPOL that are at the disposal of States and aim at effectively supporting the concept of due diligence and fighting against art crime. Such tools include the "Works of Art" Database, the "Most wanted works of art" poster and the "Special Posters" issued on exceptional situations. He also highlighted the collaboration of INTERPOL with international organisations and the signing of Memoranda of Understanding with UNESCO in 1999 and with ICOM in 2000. He also raised the audience's awareness regarding the "Unity for Security" Forum, organized in Abu Dhabi on 26-28 March 2017, with a specific panel on this very topic.
- The representative of the UNODC New York Office highlighted the importance of enhancing national efforts to criminalize illicit trafficking of cultural property. In this framework, Ms. Chan mentioned international treaties: the 2000 United Nations Convention against Transnational Organized Crime (the Palermo Convention) of which the UNODC is the custodian and guardian and which currently counts 187 States Parties. The Convention refers to cultural heritage offences in its preamble. She also referred to the 2003 United Nations Convention against Corruption and how it can be utilized to address issues of corruption that facilitates trafficking in cultural property. Additionally, she mentioned the "International Guidelines on Crime Prevention and Criminal Justice Responses to this Phenomenon", adopted by the General Assembly in its resolution A/RES/69/196, which can be instrumental to more effectively combat the illicit trafficking in cultural property and the relevant practical assistance tool, published in May 2016 by UNODC. She also referred to the UNODC's SHERLOC (Sharing Electronic Resources on Crime) database, which

contains case law and legislation on trafficking in cultural property and also provides a directory of competent national authorities in this area.

- There was wide acknowledgment of the importance of a holistic, multidisciplinary approach in addressing the matter and of the complementarity and synergies between the crucial work of international organizations and the numerous important international legal instruments.
- Special mention was also made to the relevant UN SC resolutions 2199 (2015), which includes provisions on preventing the trade in Iraqi and Syrian cultural property and to UN SC resolution 2322 (2016), which, inter alia, urges states to develop broad law enforcement and judicial cooperation in preventing and combating all forms and aspects of trafficking in cultural property, in the framework of combating terrorist groups and also to consider designating such activities that may benefit terrorist or terrorist groups, as a serious crime in accordance with article 2 of the UN Convention against Transnational Organized Crime.
- During the event, UNIDROIT and the Missions of Cyprus and Italy to the UN, announced the establishment of an informal Task Force, upon joint planning of initiatives and related costs. The Task Force will be open to all States wishing to participate, aimed at the promotion of the wider ratification of the 1995 UNIDROIT Convention. The Task Force will be coordinated by UNIDROIT, assisted by the 1995 UNIDROIT Convention Academic Project which will be launched soon, and will convene on an annual basis in New York, in order to provide a platform for the exchange of views on issues such as the state of ratifications of the UNIDROIT 1995 Convention, for the promotion of activities aimed at awareness, information and best practices sharing, and for training and education to assist on the accession, ratification and implementation of the 1995 UNIDROIT Convention.