

Resolution

2010/19

Crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking

The Economic and Social Council,

Reaffirming its resolution 2003/29 of 22 July 2003, entitled “Prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property”, and its resolutions 2004/34 of 21 July 2004 and 2008/23 of 24 July 2008, entitled “Protection against trafficking in cultural property”,

Recalling General Assembly resolutions 58/17 of 3 December 2003, 61/52 of 4 December 2006 and 64/78 of 7 December 2009 on the return or restitution of cultural property to the countries of origin, as well as other relevant United Nations resolutions,

Recalling also the role of the Commission on Crime Prevention and Criminal Justice in crime prevention and criminal justice responses to trafficking in cultural property, as well as the role of the United Nations Educational, Scientific and Cultural Organization in the field of cultural property,

Recalling further the need for continued technical cooperation between the United Nations Office on Drugs and Crime and the United Nations Educational, Scientific and Cultural Organization within their respective mandates,

Recalling the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 14 November 1970,¹ the Convention on Stolen or Illegally Exported Cultural Objects, adopted by the International Institute for the Unification of Private Law on 24 June 1995,² and the Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted on 14 May 1954,³ and the two Protocols thereto, adopted on 14 May 1954³ and 26 March 1999,⁴ as well as regional instruments such as the Convention on the Protection of the Archeological, Historical, and Artistic Heritage of the American Nations, adopted by the General Assembly of the Organization of American States on 16 June 1976,⁵ and the revised European Convention on the Protection of the Archaeological Heritage,

¹ United Nations, *Treaty Series*, vol. 823, No. 11806.

² Available from www.unidroit.org.

³ United Nations, *Treaty Series*, vol. 249, No. 3511.

⁴ *Ibid.*, vol. 2253, No. 3511.

⁵ Available from www.oas.org.

signed on 16 January 1992,⁶ where applicable, and emphasizing the importance for States of protecting and preserving their cultural heritage in accordance with such relevant international instruments,

Reiterating the significance of cultural property as part of the common heritage of humankind and as unique and important testimony of the culture and identity of peoples and the necessity of protecting it, and reaffirming in that regard the need to strengthen international cooperation in preventing, prosecuting and punishing all aspects of trafficking in cultural property,

Expressing concern that, notwithstanding its significance as part of the cultural heritage of humankind, cultural property is too often considered as mere merchandise, which not only deprives it of its cultural, historical and symbolic essence but also encourages activities that lead to its loss, destruction, removal, theft and trafficking,

Observing that cultural property is increasingly being sold through markets, including in auctions, in particular over the Internet, which gives rise to the need for effective measures, including, where appropriate, regulations in accordance with national and applicable international laws, to prevent the transfer of ownership of cultural property acquired illicitly,

Conscious of the importance of promoting public-private partnerships to address trafficking in cultural property, while bearing in mind the role of technical assistance,

Recalling the deliberations of the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, held in Salvador, Brazil, from 12 to 19 April 2010,⁷ and the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World,⁸ in which the Congress welcomed the decision of the Commission on Crime Prevention and Criminal Justice to engage in a thematic debate on protection against trafficking in cultural property, as well as the recommendations made by the open-ended intergovernmental expert group on protection against trafficking in cultural property at its meeting held in Vienna from 24 to 26 November 2009, at which it invited the Commission to conduct appropriate follow-up, including exploring the need for guidelines for crime prevention with respect to trafficking in cultural property,

⁶ United Nations, *Treaty Series*, vol. 1966, No. 33612.

⁷ See A/CONF.213/18.

⁸ *Ibid.*, chap. I, resolution 1; see also resolution 2010/18, annex.

Recalling also that in the Salvador Declaration the Twelfth Congress urged States that had not yet done so to develop effective legislation to prevent, prosecute and punish trafficking in cultural property in any of its forms and to strengthen international cooperation and technical assistance in this area, including the recovery and return of cultural property, bearing in mind the existing relevant international instruments, including the United Nations Convention against Transnational Organized Crime,⁹ where appropriate,

Taking note with appreciation of the report of the Secretary-General on protection against trafficking in cultural property,¹⁰

Alarmed at the growing involvement of organized criminal groups in all aspects of trafficking in cultural property, and underscoring in that regard the potential utility of the Convention against Transnational Organized Crime in reinforcing international cooperation in the fight against trafficking in cultural property, including its illicit removal from the countries of origin, through, inter alia, mutual legal assistance, extradition and the recovery of the proceeds of crime,

Desiring to raise awareness among all States concerning the frequent difficulty of demonstrating the circumstances, place, time and manner of the theft and pillage of cultural property, and recognizing the importance of providing the most extensive international cooperation consistent with applicable international instruments and mechanisms,

Recognizing the need to strengthen and fully implement mechanisms for the recovery and return of cultural property that has been stolen or trafficked, as well as those for its protection and preservation, where appropriate,

1. *Welcomes* the report of the meeting of the expert group on protection against trafficking in cultural property, held in Vienna from 24 to 26 November 2009¹¹ in accordance with Economic and Social Council resolution 2008/23 of 24 July 2008, and invites Member States to provide adequate follow-up to its recommendations on prevention, criminalization, cooperation and awarenessraising, capacity-building and technical assistance, as well as use of new technologies;

2. *Requests* the United Nations Office on Drugs and Crime, in accordance with its mandate, as a complement to existing work and in close cooperation with the United Nations Educational, Scientific and Cultural Organization and other competent international organizations, to provide appropriate follow-up to the recommendations of the expert group on protection against trafficking in cultural

⁹ United Nations, *Treaty Series*, vol. 2225, No. 39574.

¹⁰ E/CN.15/2010/4.

¹¹ See E/CN.15/2010/5.

property and to convene at least one additional open-ended intergovernmental expert group meeting to submit to the Commission on Crime Prevention and Criminal Justice, at its twenty-second session, practical proposals for implementing, where appropriate, those recommendations, giving due attention to aspects of criminalization, international cooperation and mutual legal assistance;

3. *Invites* Member States to take appropriate measures to prevent cultural property from being trafficked, and notes in that regard the need for adequate technical assistance;

4. *Urges* Member States and relevant institutions, as appropriate, to reinforce and fully implement mechanisms to strengthen international cooperation, including mutual legal assistance, in order to combat all forms and aspects of trafficking in cultural property, as well as to facilitate the recovery and return of such property;

5. *Also urges* Member States to take effective measures to prevent illicitly acquired cultural property from being transferred, especially through auctions, including over the Internet, and to effect its recovery and return to its rightful owners;

6. *Further urges* Member States to protect cultural property and prevent trafficking in such property by introducing appropriate legislation, including, in particular, procedures for its seizure, recovery and return, as well as by promoting education, launching awareness-raising campaigns, locating and inventorying such property, adopting adequate security measures, developing the capacities and human resources of monitoring institutions such as the police, customs services and the tourism sector, involving the media, and disseminating information on the theft and pillaging of cultural property;

7. *Takes note* of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property,¹² which was adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and welcomed by the General Assembly in its resolution 45/121 of 14 December 1990, and invites Member States to continue to submit in writing their views on the model treaty, including on its potential utility and whether any improvements to it should be considered;

8. *Invites* Member States to consider reviewing their legal frameworks, as appropriate, with a view to providing the most extensive international cooperation possible to fully address the situation of cultural property being trafficked through clandestine activities;

¹² Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders Havana, 27 August–7 September 1990: report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2.1, annex.

9. *Encourages* Member States to take all appropriate measures aimed at maximizing transparency in the activities of traders in cultural property;

10. *Urges* Member States to continue to strengthen cooperation and mutual legal assistance for the prevention, prosecution and punishment of crimes against cultural property that is part of the cultural heritage of peoples, and, in that regard, invites them to consider ratifying and implementing the relevant international instruments, including, as appropriate, the United Nations Convention against Transnational Organized Crime;⁹

11. *Urges* all States that have not yet ratified or acceded to the Convention for the Protection of Cultural Property in the Event of Armed Conflict³ to consider doing so, and urges States parties to the Convention to fully implement its provisions, in particular articles 4 and 5, whereby States parties undertake to respect cultural property situated within their own territory or within the territory of other parties, including territories occupied in whole or in part by them;

12. *Considers* that the Convention against Transnational Organized Crime and the United Nations Convention against Corruption¹³ should be fully used for the purpose of strengthening the fight against trafficking in cultural property, including by exploring other possible normative developments, when appropriate;

13. *Requests* the United Nations Office on Drugs and Crime to join the United Nations Educational, Scientific and Cultural Organization and other relevant international organizations in promoting and organizing meetings, seminars and similar events to which the Office can contribute as regards the crime prevention and criminal justice aspects of protection against trafficking in cultural property;

14. *Invites* Member States to hold regional and subregional meetings in all regions on the subject of protection against trafficking in cultural property;

15. *Also invites* Member States to consider trafficking in cultural property a serious crime;

16. *Requests* the United Nations Office on Drugs and Crime, in accordance with its mandate and in close cooperation with the United Nations Educational, Scientific and Cultural Organization and other competent international organizations, to further explore the development of specific guidelines for crime prevention with respect to trafficking in cultural property;

¹³ United Nations, *Treaty Series*, vol. 2349, No. 42146.

17. *Encourages* the United Nations Office on Drugs and Crime to continue to contribute to the cooperative network established among the United Nations Educational, Scientific and Cultural Organization, the International Council of Museums, the International Criminal Police Organization (INTERPOL), the International Institute for the Unification of Private Law and the World Customs Organization in the areas of trafficking in cultural property and its recovery and return;

18. *Requests* the United Nations Office on Drugs and Crime, in consultation with Member States and in accordance with its mandate and in close cooperation with the United Nations Educational, Scientific and Cultural Organization and other competent international organizations, to explore possibilities for the collection, analysis and dissemination of relevant data, specifically addressing the relevant aspects of trafficking in cultural property;

19. *Invites* Member States and other donors to provide extra-budgetary resources, where necessary and in accordance with the rules and procedures of the United Nations, for the implementation of the relevant paragraphs of the present resolution;

20. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its twenty-first session on the implementation of the present resolution.

*45th plenary meeting
22 July 2010*