Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1072 (1988)[1]

International protection of cultural property and the circulation of works of art

Parliamentary Assembly

The Assembly,

1. Considering that serious damage to the integrity of different states' cultural heritage continues, and on an expanding scale, through theft, illicit export and clandestine excavation ;

2. Considering that instruments have been approved in different international organisations with a view to improving the protection of cultural property ;

3. Considering that cultural and artistic goods are regarded in such instruments as part of the ‘‘cultural heritage of all mankind" (Convention of The Hague, 1954), which ‘‘bear witness to epochs and civilisations" (European Convention on the Protection of the Archaeological Heritage, London, 1969), constituting ‘‘one of the basic elements of civilisation and national culture" (Unesco Convention, Paris, 1970), and that the latter concept is fundamental to the European Convention on Offences relating to Cultural Property (Delphi, 1985) ;

4. Considering that the choice of this approach implies a concept of cultural and artistic property that is different from the concept of other goods traded, and hence a different concept of property law concerning such goods, as in fact is recognised in the Treaty establishing the European Economic Community (1957) and the Single European Act (1986) ;

5. Considering that there are marked differences between legal doctrines in the different countries, producing marked distortions also in the functioning of the market in works of art ;

6. Considering that, if there is to be more effective protection of cultural goods, there must first be extensive circulation of information concerning such goods ;

7. Convinced of the need for broader, more resolute collaboration among the different states, so as to make it possible for the cultural heritage of each to be safeguarded and for works of art to move from one country to another correctly,

8. Recommends that the Committee of Ministers call on the governments of the member states to take steps to ensure :

a. that the international conventions relating to this question are signed and ratified, looking ahead to the time when uniform regulations come into being that make it possible for cultural property that has been circulating illicitly to be returned to the countries from which it came ;

b. that an additional protocol is adopted to the Delphi Convention stating in particular that the good faith of the purchaser is only of relevance to enabling him to obtain compensation when obliged to return cultural property that has circulated illicitly ;

c. that, in the meantime, all existing internal legal measures are applied so as to permit the restitution of cultural property that has circulated illicitly ;

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1. See Doc. 5834, report of the Committee on Culture and Education. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 23 March 1988.

d. that tighter controls are introduced governing the export and import of works of art ;

e. that they collaborate fully with international organisations, such as Interpol, which are taking effective action against the illicit movement of works of art ;

f. that they promote all endeavours to catalogue cultural goods and to circulate details of works of art that have disappeared ;

g. that the same tax rules apply to the sale of works of art in the different countries ;

h. that tax policies are adopted encouraging the acquisition of works of art and their donation to cultural institutions ;

i. that customs formalities are simplified for the movement of works of art for exhibition purposes.