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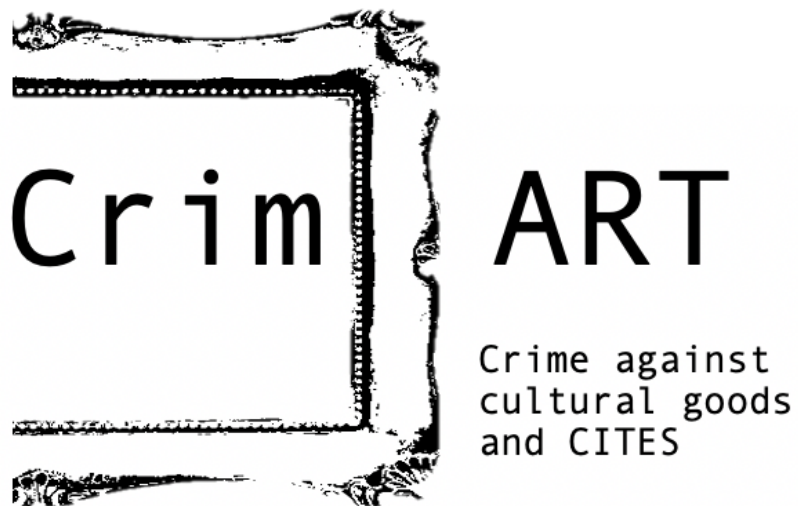
CRIME AGAINST CULTURAL GOODS AND CITES

KRAKOW 2022



Co-funded by
the European Union

*„CRIME AGAINST CULTURAL GOODS AND CITES”
(CrimART)*



INTRODUCTION

It is one of the fundamental obligations of a modern state and society to protect its cultural heritage and nature against loss or over-exploitation, as well as to pass these values on to future generations.

Broadly defined cultural goods including of works of art, archaeological sites, archival collections, as well as nature covered by the provisions of the "CITES" Washington Convention are of great value not only from the perspective of national heritage, but also their monetary value. It is for this reason that they have always been in sight of criminal groups dealing with their illegal acquisition, smuggling and sale. Often the funds obtained in this way were used to finance weapons and terrorism.

A very high risk of loss of the above-mentioned goods has been historically brought about by armed conflicts, which usually entail the loss of control over museums, collections of artworks, as well as facilities which store these goods. As a consequence their looting and exporting to other countries is not uncommon, just as their devastation or disappearance.

The awareness of the above threats has been the foundation for the concept of organizing a number of conferences devoted to the protection of cultural goods and CITES species and exhibits.

The very relevant element of the project was its comprehensiveness in the scope of cooperation between many agencies and institutions dealing with the protection of these values and the international nature of this undertaking. Only in this way, i.e. by joining forces of many institutions and tightening cross-border cooperation of agencies, is it possible to act effectively to protect the priceless valuables. The project "*Crimes against Cultural Goods and CITES (CrimART)*" funded by the **European Commission's Internal Security Fund (ISF Police 2020)** is the Polish Police's response to these challenges.

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Table of contents

INTRODUCTION	3
dr Adam Grajewski: Legal regulations, procedures and previous experience in combating crime against historical monuments and artifacts.	5
Grzegorz Wojda: Theft of the historical "Arbeit macht frei" sign from the Auschwitz-Birkenau Museum.....	6
Lidia Dziędzińska, Władysław Wojtyczka: Interdisciplinary cooperation in forensic identification examination of the "Arbeit macht frei" sign recovered after the theft from the Auschwitz-Birkenau Museum.....	7
Aleksander Furtak: International Police Cooperation.....	8
Aleksander Furtak: Interpol database on the stolen works of art.....	9
Wojciech Krupiński: The role of the Polish Border Guard in combating crime against cultural property.	11
Wojciech Krupiński: Case studies on attempts of illegal export of cultural goods uncovered by the Polish Border Guard.....	12
Wojciech Krupiński: Experiences of the Border Guard in combating crime against cultural goods.	13
Anna Skaldawska: The role of the National Tax Administration in combating crime against cultural goods	14
dr Barbara Berska: State Archives contribution to the protection of national heritage.	15
prof. UAM dr hab. Wojciech Szafrąński: Activities of organized criminal and terrorist groups in the art trade. From anthologies in the art market to threats to cultural heritage and financing crime and terrorist groups.	17
Elżbieta Cajzer: The historical collections of the Auschwitz Museum. Museum objects - evidence of crimes, criminal-court proceedings, legal protection.....	19
Jacek Kukuczka: Crimes against cultural goods from non-European areas. Dilemmas and challenges. An ethnographer's perspective	21
Mariusz Wiśniewski: Searching for lost cultural property: grounds and legal framework of activities of the Department for Restitution of Cultural Goods of the Ministry of Culture and National Heritage.....	23
Elżbieta Zygier: The role of provenance research. Examples of conservation analyses and procedures at the National Museum in Krakow.....	24
Marcin Sabaciński: Combating illegal excavations and illegal trade in archaeological artifacts, cooperation between police and cultural institutions.....	26
Iwona Pomian: Current knowledge on threats to underwater cultural heritage in marine areas.	27
Paweł Czyż: CITES in the context of cultural goods.....	28

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dr Adam Grajewski:

Legal regulations, procedures and previous experience in combating crime against historical monuments and artifacts.

National Police Headquarters Control Office

The demand for works of art and artifacts in Poland is still high. In the cultural goods trade, we also come across objects that once furnished churches, cemeteries or other religious buildings. Among them, there are objects which have found their way to the market as a result of a prohibited act. Such objects include historically relevant items and archaeological relics from illegal searches on archaeological sites, battlefields and places connected with martyrdom. Often these are undocumented artifacts, which makes it easy to introduce them to the market without precise information as to their context and where they were lost. In Poland the problem of unbridled criminal activity affecting widely understood cultural property has been highlighted for many years.

The following lecture will highlight the activities of the Police aimed at improving the legal protection of movable historical objects and historical monuments in Poland. Subsequently, the legal acts regulating the issues of historical monuments and artifacts as well as criminal law will be presented, pointing to the current state of the law supporting Police efforts to combat and reduce this type of crime. Additionally, both practical and formal examples of activities undertaken in this regard will be presented. The specificity of crime against archaeological monuments and historical artifacts will be presented as well as the capacity of the Police involved in the process of preventing and combating this type of crime.

Assistant Commissioner Adam Grajewski - Ph.D at law, archaeologist. Police officer who for many years have been dealing with criminal offences. He has also had experience with the theme of threats to national heritage from the practical and theoretical side. From 2007 to 2021 he served as the regional and then national coordinator for combating crime against historical monuments and artifacts. Currently, he is an officer of the General Police Control Department of the National Police Headquarters Control Office.

Moreover, since 2016 he has been giving lectures during workshops and training sessions organized for police officers, conservation services, which were also attended by prosecutors, employees of the Ministry of Culture and National Heritage, Border Guard officers, National Tax Authorities and directors and employees of museums. He is also a lecturer at the University of Łódź.

He is an author of numerous publications on issues related to legal and criminal aspects of the protection of cultural heritage. His main interests are focused on the problem of crime against historical monuments and artifacts, with particular emphasis on archaeological sites, and on the application of archaeological methodology in forensic science. He focused, among other things, on the methods used in searching for and excavating buried corpses, examining and inspecting explosion or disaster sites, and carrying out exhumations.

Grzegorz Wojda:

Theft of the historical "Arbeit macht frei" sign from the Auschwitz-Birkenau Museum.

Criminal Department of the Regional Police Headquarters in Kraków

The main gate in the Auschwitz I camp, was the only one in the whole camp, that was made on order of the Germans by Polish political prisoners. The prisoners were brought in one of the first transports arriving from Wiśnicz at the turn of 1940-1941. The construction of the gate was connected with the replacement of the makeshift outer fence of the camp, supported by wooden posts. The fence was replaced with a permanent one on reinforced concrete posts with live barbed wire. The inscription over the gate-"Arbeit macht frei" (Work makes you free)-was made by prisoners from the locksmith commando under the direction of Jan Liwacz (camp number 1010). Museum guards informed police of the theft on Friday morning, when they noticed that the inscription was missing during their morning tour of the camp. According to Auschwitz-Birkenau State Museum officials, the theft was no accident. The perpetrators knew how to enter the site and how to remove the sign. They knew the guards routine and how the CCTV was placed.

Lidia Dziedzińska, Władysław Wojtyczka:

Interdisciplinary cooperation in forensic identification examination of the "Arbeit macht frei" sign recovered after the theft from the Auschwitz-Birkenau Museum.

Forensic Laboratory of the Regional Police Headquarters in Kraków

The theft of the "Arbeit Macht Frei" sign from the former death camp in Oświęcim was a brazen and outright appalling act that outraged public opinion. This was largely due to the desecration of the memorial commemorating the place of execution and death of millions of people. From the standpoint of the law enforcement agencies, the theft became a particular priority due to public pressure and media interest from around the world. It primarily was an example of very good job done by police officers, the prosecutor's office and the court. It took only three months from the incident to the issuing of court judgment. Thanks to wide-ranging activities of investigators it was possible to recover the stolen sign very quickly and also to secure the car used by the perpetrators to carry the stolen object. Further activities were focused on a comprehensive investigation of the incident, motives of the perpetrators and collection of evidence. The following presentation aims at presenting the stages of investigators' work connected with forensic examination of clues which in effect led to proving the perpetrators guilty.

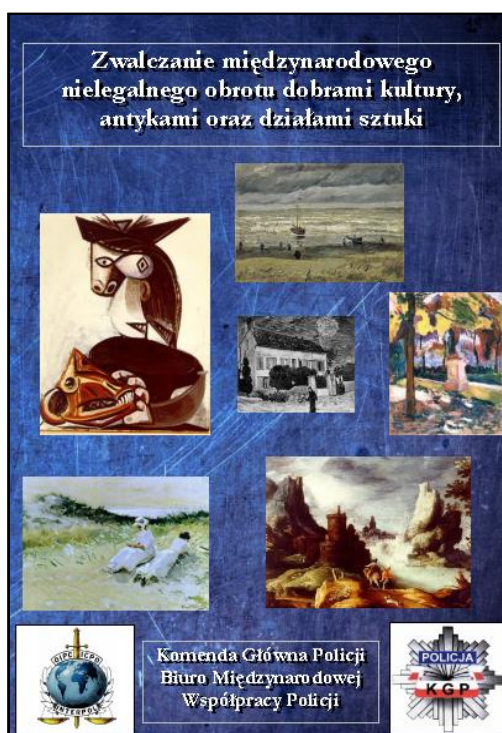
Aleksander Furtak:
International Police Cooperation.

International Police Cooperation Bureau of National Police Headquarters

International police cooperation, general information. Access to the Interpol Information System
Interpol operations. Future initiatives. Presentation of cases regarding international theft of works of art.



The International Criminal Police Organization INTERPOL



Poland was one of the founding countries of the International Criminal Police Organization INTERPOL. Between 1956 and 1990 the Membership in the organization was suspended. The National Interpol Office is located within the structure of the National Police Headquarters.



Aleksander Furtak:

Interpol database on the stolen works of art.

International Police Cooperation Bureau of the National Police Headquarters.

INTERPOL database on the stolen works of art.

The WoA database includes only those object which were officially reported missing in the member states.

Last Work Of Art Approved								
Work Of Art	Gallery	WOA Case Ref	Object	Title	Artist	Uploading Date	Approved Date	Status
pl		2020/98.3	DRAWING	the Assumption		05-06-2020	05-06-2020	APPROVED
pl		2020/98.2	GOLD & SILVER	Fan depicting an		05-06-2020	05-06-2020	APPROVED
pl		2020/96.1	PAINTING	the Lamentation	LUCAS CRANACH THE ELDER	04-06-2020	05-06-2020	APPROVED
pl		2020/97.1	PAINTING	Portrait of a Man		05-06-2020	05-06-2020	APPROVED
pl		2020/98.1	PAINTING	child portrait of C		05-06-2020	05-06-2020	APPROVED
pl		2020/95.1	PAINTING	portrait of Luther	LUCAS CRANACH THE ELDER	04-06-2020	04-06-2020	APPROVED
pl		2020/94.1	PAINTING	portrait of artists	Marcello BACONARELLI	04-06-2020	04-06-2020	APPROVED
pl		2020/92.1	PAINTING	portrait of a girl	Leopold Karl Walter van Kalle	03-06-2020	04-06-2020	APPROVED

The list above includes the records of Polish works of art registered in the WoA database.

The file regarding the stolen work of art includes information such as pictures, artists, period description, marking and administrative information.

Launch date: 1995

Contents: INTERPOL's database of stolen art combines descriptions and images of cultural goods reported stolen in the organization's member states. Information provided by INTERPOL National Offices and certain international partner organizations, such as the International Council of Museums (ICOM) and UNESCO, may be entered into the database. Only fully identifiable objects are entered into the database. In order to help identify rightful owners, unknown objects secured by the police are also listed in the database only at the request of Interpol National Bureaus

Files regarding the stolen artwork contain information such as images, artist, period, description, markings, size, and administrative information.

General information - 52 978 records

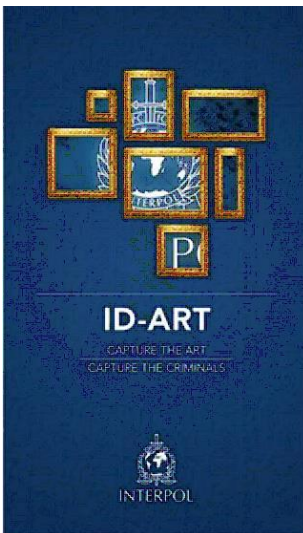
- **826** registered Polish works of art - **at the end of 2009** access to the database became possible for agencies and institutions from outside law enforcement (such as museums, auction houses, antiquarians, customs offices)
- **June 2018** launch of the PSYCHE application enabling the Police to register works of art in the WoA database from the national level
- **May 2021** ID-Art mobile application launched (publicly available)

11.06.2018

The Interpol General Secretariat in Lyon has launched an upgraded database of stolen works of art developed under the PSYCHE (Protection System for Cultural Heritage) project implemented in partnership with the Italian police and financed by the European Union.

The features of PSYCHE allow for autonomous introduction, modification and deletion of works of art stolen in the country. It simplifies the procedure of verification. It performs automatic comparison of photos.

ID-ART mobile application



Three main features of ID-Art make it possible to:

- **Perform search for stolen works of art in the Interpol's *Work of Art* database.**
- **Creation of a list of private collections**
- **Reporting stolen artwork and cultural artifacts.**
- Searching among the 50,000 items in the *Work of Art* database can be done either by taking a photo and uploading it or by entering search criteria.
- Users can create inventories according to international "Object ID" standards, capture images and record the characteristics of valuable artworks to track down art collections.
- In the case of theft, these private records can be turned over to law enforcement, greatly increasing the likelihood of recovery.

The app also allows users to report historic, archaeological, or underwater sites where cultural property may have been looted or lost by recording their geographic location, detailed description, and photos that capture the conditions of the sites.

ID-Art is available for smartphone downloads on Apple and Google stores.

Wojciech Krupiński:

The role of the Polish Border Guard in combating crime against cultural property.

Border Guard General Headquarters

The Polish Border Guard is a uniformed and armed organization with the purpose of securing the state border, controlling border traffic and preventing and counteracting illegal migration. The Border Guard is also a unit that identifies, prevents and detects crimes and offences related to illegal border crossing and illegal transportation of goods across the border.



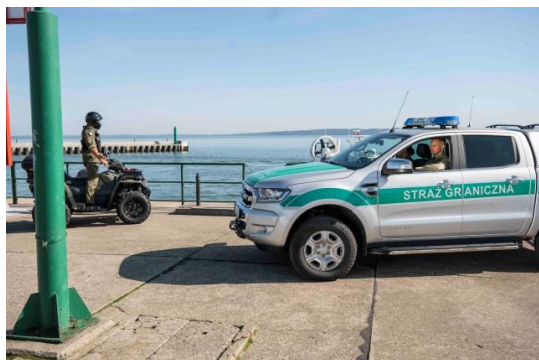
This also applies to crimes against cultural goods. The presentation seeks to demonstrate the capacity of this agency to identify this type of criminal phenomena, taking into account the existing organizational structures of the organization. Emphasis will be placed on highlighting the coordinated flow of information between the Border Guard units. The preventive framework puts major emphasis on awareness-raising workshop for Border Guard officers which are organized periodically and cover a wide range of issues as will be demonstrated by providing examples of such training sessions.

Wojciech Krupiński:

Case studies on attempts of illegal export of cultural goods uncovered by the Polish Border Guard.

Border Guard General Headquarters

The presentation will demonstrate attempts of illegal export of cultural goods from the country uncovered by the Border Guard in the last 15 years. It focuses on attempts of illegal export of antiquities across land, sea and air border crossings.



The phenomenon of smuggling will be discussed focusing on its scale in different periods and the ways perpetrators attempt to commit crimes of illegal export of cultural goods. The presentation aims at presenting reasons for an uptick in disclosed cases and changes in criminal smuggling trends especially against the backdrop of changing organizational and legal frameworks.

Wojciech Krupiński:

Experiences of the Border Guard in combating crime against cultural goods.

Border Guard General Headquarters

The presentation presents the Polish Border Guard and its role in combating crime, with particular focus on crime against cultural goods.



The paper covers the topic of agency's powers that are utilized to identify these types of criminal activities and how the agency's organizational framework facilitates that process. Moreover, the discussed subjects include the flow of information between the units of the Border Guard and the capacity to undertake inspections and exercise control over processes. In the context of this type of crime, great emphasis is also placed on periodic and comprehensive awareness training for Border Guard officers. Examples of such training sessions will be provided. The presentation features also attempts to illegally export cultural goods from the country uncovered by the Border Guard.

Anna Skaldawska:

The role of the National Tax Administration in combating crime against cultural goods

National Tax Administration (KAS) takes care of the collection of revenue from taxes, customs duties, fees and untaxed dues towards the state budget. It protects the interests of the State Treasury and the customs of the European Union. It ensures the service and support of the tax payers in the proper execution of tax and customs duties. Within the scope of its competences, resulting from the provisions of EU and domestic law, KAS also deals with issues related to the protection of human health and life, protection of endangered animal and plant species, protection of the natural environment, consumers, intellectual property rights and cultural goods.



While performing tasks related to the protection of cultural goods and counteracting crime against such goods, KAS cooperates with domestic and international institutions and authorities. KAS performs control of legal trade in cultural goods, while preventing them from being smuggled. When conducting inspections of cross-border shipments of cultural goods, customs and fiscal authorities also verify their legal origin. They use national and international tools and systems for this purpose. These include: national list of cultural artifacts that were stolen or illegally exported abroad, catalog of items lost during war, Interpol database, ID-ART application, ICOM RED LISTS, Archeo System WCO.



In order to effectively perform these tasks, officers of the Tax and Customs Service participate in workshops on legal regulations concerning trade in cultural goods, their identification and handling. KAS also participates in international operations against theft and illegal trade in cultural good.

dr Barbara Berska:

State Archives contribution to the protection of national heritage.

State Archive in Kraków

The resources of state archives constitute documentary record of the activities of the state and the nation as well as its institutions, both present and past. It consists of various types of materials: manuscripts, seals, maps, typescripts, technical drawings, prints, photographs, films, sound recordings, electronic documents.



Casimir, King of Poland, approves the laws passed and enacted by the aldermen of Kraków against sales during weddings and baptisms, kidnapping maidens, and against conscripts returning to the city

Parchment diploma issued in Sandomierz, 1336, 9 IX

The National Archive in Kraków, Collection of parchment documents, ref. 29/657/20

During the seminar, organized by the State Archives in Krakow, its participants will learn the legal basis for the functioning of the network of state archives. The discussion of the procedures implemented to secure the resources in case of theft will be a particularly important point. Upon the theoretical introduction, examples of archival materials will be presented, taking into account the variety of media on which information is recorded, as well as the technique used in their production. The presentation will be complemented by a demonstration of techniques for securing and preserving archival materials in the Conservation and Preservation Workshop.



(obverse and reverse) - Two-sided, majestic and state seal of King Casimir the Great, imprinted in natural wax, hangs on two silk string, purple and pink on parchment document ref. 29/657/20

The National Archive in Krakow can boast over 140 years of its institutional tradition. The Archive's holdings, occupying more than 25 linear kilometers of shelves and covering archives from the 12th century to the present day, are among the largest and most valuable in the country. The Archives have an open character and still gather materials donated by state and local government institutions, associations, registry offices, economic institutions and private individuals, mainly from the area of Malopolska.

prof. UAM dr hab. Wojciech Szafrński:

Activities of organized criminal and terrorist groups in the art trade. From anthologies in the art market to threats to cultural heritage and financing crime and terrorist groups.

Adam Mickiewicz University in Poznań

Owing to its nature, the art market is a perfect ecosystem for the crime world which benefits financially from increasingly sophisticated mechanisms exploiting international art trade. There are various misconceptions regarding the art trade such as: the myth of dualism (legal and illegal market), the myth of faith in national law and soft law or the myth of young market. In reality, poor knowledge of mechanisms governing the art market by state authorities, including law enforcement bodies, and perpetuation of these myths all result in the strengthening of pathology and crime in this market, including corruption, price manipulation, legalization of objects of criminal origin, so called "black auctions", artnapping, different forms of money laundering through the art market or financing terrorism through trading in cultural goods.

The perception of the art market being divided into legal and illegal one is a great oversimplification that obfuscates more than it reveals. What is important is the specificity of this market in the context of other markets that bring gigantic financial benefits to the criminal world. In other words, one should thus compare the art market to the market of weapons, drugs or human trafficking.

From this perspective, you can see the art market having an advantage in eight areas:

1. Trading in artwork (from illegal sources) yields high returns with relatively low risk, much lower than other markets.
2. There exists a low flexibility of the art market, thus price increases do not suppress demand. Moreover, the limited amount of cultural goods and the lack of supply (except for forgeries) affect the price level.
3. Unlike the other above mentioned markets, there is a legal art market with a far lower level of state control. Works of art/cultural goods are treated as positive goods, unlike the "commodities" traded in the other markets.
4. In the art market, there are private entities that can legally transact without state supervision, which enables criminal organizations to assume the role of such entities. In other markets there are no such legal entities, or if there are, they are strongly controlled by the state; most often the state itself is a stakeholder in such entities.
5. This market features an intricate and complex system of criminal policy instruments that instead of being their strength have become something quite the opposite (the Palermo Convention is an example). Moreover, the composition of international protection (in the so-called third stage) is still in progress.
6. There is a greater consent of legally valid market participants to "gray area" activities resulting from the relativism of this market, evident not only in the pursuit of investment returns, but also in competition for more important cultural goods both within private entities and cultural institutions (museums) or the state itself.
7. The art market has a completely different structure and understanding of organized crime than other markets.
8. Works of art/cultural goods provide financial security for the other markets identified above. The reverse of that situation is rarely the case due to the very nature of these such cultural goods which generally tend to gain rather than lose value.

The lecture will discuss the phenomena related to the functioning of:

a) organized criminal groups in the art market carrying out various activities classified as, among others, counterfeiting and trading in cultural goods, theft of cultural goods and ways of putting them back into circulation, corruption facilitated by the art market, creating financial Ponzi schemes, falsifying data and producing false analyses of the art market or its segments. Examples of how such groups operate will be given along with case studies.



Image. 1 Counterfeit of a painting by Jacek Malczewski, subject of a phenomenon on the art market called "circular trade in counterfeits"

b) terrorist groups that on one hand obtain funds for their activities (here, in particular, money laundering) through trade in cultural goods, and on the other hand carry out activities aimed at destroying cultural heritage or, at least, 'stage' their destruction followed by their illegal trade. Examples of the ways in which such groups operate will be given, along with case studies from various parts of the world, including Afghanistan, Syria, and Mali.



Image. 2 Destruction of objects at the Mosul Museum by militants of the so-called Islamic State

Wojciech Szafrński - Ph.D. at law, Professor at Adam Mickiewicz University in Poznań. Ad hoc expert in valuation of works of art, appraiser of the Minister of Culture and National Heritage in the field of evaluation and valuation of antiquities. Art market advisor in the Programs of the Minister of Culture and National Heritage, expert in the field of art trade, dealing with legal and economic issues of the art market and with crime and pathologies in trading in cultural goods. Member of the Acquisitions Committee of the National Museum in Krakow, Wawel Royal Castle, Member of Team UNESCO Chair on Cultural Property Law (UO).

Elżbieta Cajzer:

The historical collections of the Auschwitz Museum. Museum objects - evidence of crimes, criminal-court proceedings, legal protection

Auschwitz - Birkenau State Museum

Currently the Auschwitz-Birkenau State Museum is an obligatory point on the tourist map of the world. It has been entered onto the UNESCO list together with its entire grounds and historical infrastructure and it is one of the best preserved former German Nazi labour and extermination camps.

It is both a Memorial Site and a state cultural institution under legal protection, with several hundred thousand original historical objects, kilometers of archives, buildings, fences, roads. A place of symbolic nature that has witnessed the tragedy for millions of victims. Unfortunately, a large number of visitors, as well as a large area, about 122 ha, also generates a huge risk of crimes, offences and devastation.



Photo from PMAB collection



Photo Elżbieta Cajzer

Legal protection in the form of regulations included in the Act on Protection and Care of Historical Monuments, the Act on Museums, and the status of cultural property does not guarantee full security of the camp remnants. The best security system, monitoring, physical supervision, and name badges given upon entry do not eliminate all risks. It is of utmost importance, to raise awareness of what Auschwitz is today, how important the authentic context of this place is, what objects are there, and what the consequences of not observing the rules outlined in the regulations for visitors can be.

The Auschwitz Museum is not only a tourist attraction, it is above all a memorial, a cemetery, and a historical site. One cannot interfere with its space with impunity, collect memorabilia found during the visit, mark one's presence with signatures on the original structures, publicly manifest one's political beliefs, etc. Some forms of behavior exhibited by visitors are based on a lack of basic knowledge, awareness of the place and the consequences of inappropriate attitudes. Of course, there are also intentional actions directed against historical monuments, but these are exceptional and rare situations. Recent years have shown quite clearly that the large number of visitors translates into a number of incidents, about which we can read in the press from time to time: destruction, devastation of barrack walls, removal of objects, pieces of barbed wire in suitcases, secured at the airport in Balice, illegal attempts to search for artifacts on the grounds, inappropriate gestures during visits, everything that is directly related to the site of the former

camp. Apart from the examples mentioned above, there is another issue, more pertinent to the work of museum professionals, namely the crimes and misdemeanors that occur on the Internet: illegal auctions of objects from the Holocaust period, the enormous number of copies, forgeries of varied quality of objects offered for sale, both related to the victims of the camps and, increasingly, to fascist ideology and neo-Nazism. How should one navigate such a delicate subject? What should we pay attention to? When and how to react? When looking for the key to appropriate solutions one must start with an attempt to find answers to these questions.



Photo. Elżbieta Cajzer



Photo. Elżbieta Cajzer

Jacek Kukuczka:

Crimes against cultural goods from non-European areas. Dilemmas and challenges. An ethnographer's perspective

Seweryn Udziela Ethnography Museum in Kraków

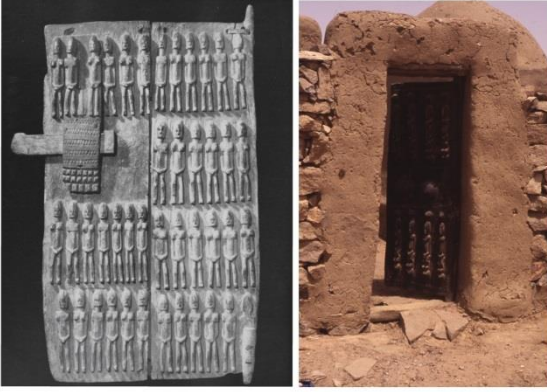
Both museums and private collections collect and preserve cultural heritage, both domestic as well as foreign, from distant, non-European cultures and communities. The rapidly growing network of private collections, in particular, is contributing to the growing demand for works of art and handicrafts of folk and non-European cultures. Artifacts and objects imported from distant countries include unique items, which are part of the heritage subject to legal or customary protection.



collection seized at Kraków-Balice Airport _ photo. Jacek Kukuczka

The diverse nature of cultural goods from non-European areas poses an enormous challenge not only for ethnographers, archaeologists, art historians but also institutions - museums and galleries - that collect them. This challenge becomes even greater in the context of crime against cultural goods. Various cultures and traditions, as well as taxonomies and typologies different from those of the European Union, make it impossible to create a "catalog" of goods that are strictly banned when it comes to trade (import) into the EU and Poland. In other words, there is no Washington Convention for ethnographic cultural goods. However, the practice of every day museum activities as well as preventing crime against goods of culture enforces cooperation between the museums (including ethnography museums) communities and agencies watching over the legality of cultural goods trade. In order for this cooperation to be beneficial for both sides, it is necessary to outline the framework of cooperation and a list of challenges regarding counteracting crime related to trade in cultural goods. Below, we list a few important challenges/questions that are worth paying attention to when attempting to form effective cooperation:

How to identify the non-European cultural goods that are under threat? What defines their cultural and material value? What to pay attention to? And finally, what actions harming those cultural goods can we identify?



lost cultural heritage - Dogon house door in Mali, object (L) , in natural environment (P) _ photo. Jacek Kukuczka

The lecture and presentation will focus on exactly these questions. The most important criteria and characteristics that determine the value of selected cultural goods will be presented, mainly on the example of objects from sub-Saharan Africa. Attention will be paid to the value and significance of everyday objects, elements of decoration, sculptural details, etc., which may have a unique heritage value.

Finally, drawing on the museum's expertise and ethnographic research, a set of issues will be presented including advice for agencies counteracting crime in the area of cultural goods. The proposed criteria - even if a general approach is applied - may allow for the development of practices to prevent crime against cultural objects, especially those coming from outside the European cultural area.



returned artifact originating from the Bardi Jawi Aborigines from Chicago, USA. Australia, AIATSIS - Return of Cultural Heritage

Mariusz Wiśniewski:

Searching for lost cultural property: grounds and legal framework of activities of the Department for Restitution of Cultural Goods of the Ministry of Culture and National Heritage

Department for Restitution of Cultural Goods of the Ministry of Culture and National Heritage
Ministry of Culture and National Heritage

Poland was the country that lost the most cultural property during World War II, both as a result of military action and planned looting. Polish wartime losses are considered to constitute movable cultural property lost as a result of World War II from the territory of Poland within the post-1945 borders. The Ministry of Culture and National Heritage is constantly making efforts to find the lost works of art and restore them to their original collections.

Tasks related to the search for and recovery of lost cultural goods are entrusted to the Department for the Restitution of Cultural Goods. It is a team whose skills, experience and knowledge allow it to explore two extremely important areas for the Polish cultural heritage: issues of war losses, and issues related to cultural goods lost today.

Everyday work in this field mainly focuses on the verification of domestic and foreign art market, archival and provenance research, as well as difficult negotiations requiring great diplomacy and discretion.

The Ministry of Culture and National Heritage gathers information about lost works of art, which are the basis for conducted searches and restitution activities. Currently, the Ministry of Culture is conducting over 80 restitution proceedings in several countries around the world, including Germany, Great Britain, Austria, the United States and Japan. We are constantly working to find lost works of art and to restore them to their domestic collections. Since 2016, the activities of the Ministry of Culture and National Heritage have resulted in the recovery of more than 500 individual works of art, including paintings, prints, manuscripts and old prints, archives, archaeological artifacts, objects of artistic craftsmanship and ethnography. The key to a successful restitution process is the combination of various negotiating methods, the use of a range of legal and non-legal tools, and the constant search for new methods of recovering lost cultural goods.

The Ministry of Culture and National Heritage maintains an electronic database of items lost during wartime activities. It is the only nationwide register of cultural goods lost as a result of World War II and originating from the territory of Poland after 1945. Its goal is to gather as detailed information as possible on plundered cultural objects. The database is an open collection - over 64,000 records have been entered so far. War losses can be reported by anyone who has any knowledge about them. The database is constantly supplemented thanks to archival search queries that provide knowledge about other lost objects.

Moreover, the national list of historical monuments and artifacts stolen or illegally exported abroad, maintained by the Ministry of Culture and National Heritage, is the only database in Poland gathering information on sought-after lost items from museum, church and private collections stolen in relatively recent past. The list makes it possible to check whether an object is not wanted as stolen or illegally exported.

The Ministry of Culture and National Heritage cooperates closely with the Polish Police, the Public Prosecutor's Office, the Border Guard, the National Tax Administration and investigative agencies of other countries. The actions taken by the employees of the Ministry of Culture in cooperation with national and foreign law enforcement agencies made it possible to find many lost works of art.

There is no period of limitation for acts of looting not only in the ethical and moral dimension, but also in the sphere of international law, and restitution is a continuous and infinite process, so any return of lost cultural property should aim to work out fair solutions resulting in the restoration of the original state, i.e. the return of the work of art.

Elżbieta Zygiel:

The role of provenance research. Examples of conservation analyses and procedures at the National Museum in Krakow

National Museum in Krakow

Provenance research conducted by museums today involve interdisciplinary analyses in the fields of archival science, art history and conservation. Their aim is to search and verify information on the origin and fate of a work of art (Latin *provenientia* - origin). They also aim to confirm or establish the ownership of the object under analysis. In a broader context, provenance verification has a measurable aspect - the recovery or loss of a work of art. The National Museum in Kraków has applied this approach since the inception of the collection. In order to confirm the authenticity of a work of art, expert analyses were carried out, notes were archived, registers were created, which today constitute a valuable source of information and a contribution to scientific research. Nowadays it is obligatory for museum institutions to apply procedures and tests, which allow for multi-track archiving of data and protection of collected works. The need for this type of practice arises from the Institution's statutory obligation and general legislation¹. Once the object is accepted into the collection, it is subject to inventory including registration in the Inventory Book, with the effect of putting a number on the object as a property marker. In this way a permanent trace remains on the object, on the basis of which we can make a quick identification. Sometimes inventory numbers are changed, but they are never removed. The attached photograph illustrates that concept. The marking of works of art is done on the basis of established rules laid out in the guidelines for marking museum collections at the National Museum in Krakow. Additionally, the museum item must be photographed. For objects that do not have the status of a museum piece, an auxiliary record is kept.

When it comes to old markings, it is not uncommon to come across historical information on museum pieces - inscriptions directly on the canvas or loom as well as seals or stickers made in connection with the relocation of the work or loaning it for exhibition. Another important source of information, helpful in determining the provenance of the work, are workshop marks - e.g. paint stamps on the canvas or stickers of companies offering paintings supports. These are particularly important for analyses that confirm the authenticity of a historically important artifacts. More extensive verification is provided by interdisciplinary conservation studies of the object's intrinsic technology and technique. The basic package includes analyses of ultraviolet and infrared photographs, roentgenograms, and macrophotographs in visible light. The analyses are complemented by non-invasive methods for the examination of layers of paint using XRF X-ray fluorescence². The results provide a body of information about artist's workshop, his creative code.

The possibility of using published exhibition catalogs, auction catalogs and digital resources of museum, photographic and library archives is extremely helpful in provenance research³.

Thanks to the intensification of this type of research over the past 20 years and the application of proper procedures, many works have been found and identified. For example, in 2017, a painting by Maksymilian Gierymski, *Winter in a Small Town*, considered to be a war loss, was found by the Kraków police and transferred to the National Museum in Kraków.

¹ ICOM Code of Ethics for Museums; Law on Museums of 21 November 1996. (Journal of Laws 1997 number 5 item. 24),

² Research is conducted in the Laboratory of Analyses and Non-invasive Testing of Historic Objects (LANBOZ)

³ The National Museum in Krakow uses an internal digital database program called Muza. Digital collections are widely available <https://zbiory.mnk.pl/pl/strona-glowna>



Reverse of the painting by J. Szermentowski Sosny, c.1870, National Museum in Cracow, photo: Elżbieta Zygier



Fragment of the back of a painting by A. Grabowski, Portrait of Józef Szujki, 1885, National Museum in Kraków. Proprietary markings visible, photo. Elżbieta Zygier



Stamp on the canvas of M. Gieryski's painting Winter in a Small Town, 1872, the so-called workshop mark of a canvas manufacturer, photo: Elżbieta Zygier

Marcin Sabaciński

Combating illegal excavations and illegal trade in archaeological artifacts, cooperation between police and cultural institutions.

National Heritage Institute

National Heritage Institute (NID) is a cultural institution created by the Minister of Culture and National Heritage. The National Heritage Institute is a direct successor and a continuator of the mission of all central state institutions established for the purpose of protecting heritage. It sets and popularizes the standards of heritage protection and conservation, educates on the principles of heritage protection and its value, as well as collects and popularizes the knowledge of historical monuments and artifacts.



Treasure – bronze age



Detector– coin

The experts employed at the Institute issue opinions regarding activities at historical sites. The National Heritage Institute constitutes the main back office offering support for state institutions, especially those statutorily responsible for heritage protection. For over 15 years, the National Heritage Institute has been closely cooperating with the Police, Border Guards and Tax and Customs Service in fighting and preventing crimes against historical monuments and artifacts. Special attention in this cooperation has been paid to combating crime against archaeological heritage, which has become the Institute's specialization. The presentation will cover the principles of cooperation between the National Heritage Institute and law enforcement agencies, both formally and in practice, basic areas of joint activities, with particular emphasis on online trade in found artifacts, joint initiatives such as training and prevention. Discussed topics include the characteristics of crime against archaeological artifacts, as well as the opportunities offered by the participation of specialized cultural institutions in the process of preventing and combating this type of crime.

Iwona Pomian:

Current knowledge on threats to underwater cultural heritage in marine areas.

National Maritime Museum in Gdansk

On August 18, 2021, Poland adapted the Convention on the Protection of the Underwater Cultural Heritage (Paris 2001) which it ratified in 2020. The provisions of the Convention clearly indicate the main objective, which according to Article 2(1) is to "provide for and enhance the protection of the underwater cultural heritage" in order to "preserve" it for the benefit of mankind.



shipwreck from the XIX century



aquamailia

According to article 1 section 1 (a), the Convention considers as underwater cultural heritage "all traces of human existence of a cultural, historical or archaeological nature that have remained or remain wholly or partly underwater, either periodically or permanently, for at least 100 years, including: (i) sites, structures, objects, artifacts and human remains, together with their archaeological and natural context; (ii) vessels, aircraft and other vehicles or parts, cargo or other contents, together with their archaeological and natural context; and (iii) objects of a prehistoric nature."

The presentation will show the types of historical monuments and artifacts discovered at the bottom of the Baltic Sea and the influence of the natural environment on how they were preserved. Subsequently examples will be presented of uncovered damages and ways different agencies and services cooperate to search and detect and prevent. Examples will also be provided of solutions used by other Baltic countries.

Paweł Czyż:

CITES in the context of cultural goods

In the public perception, crimes against cultural and natural heritage are less important and less socially harmful than other forms of cross-border crime, such as human trafficking, arms or drugs trade. In spite of appearances, they are one of the most profitable criminal practices. The key acts of international law devoted to this issue are: United Nations Convention Concerning the Protection of the World Cultural and Natural Heritage (the criminological concept of "UNESCO" crimes) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the criminological concept of "CITES" crimes). The literature on the subject assumes that the term "cultural goods" includes both historical monuments and artifacts, i.e. objects of historical, artistic or scientific importance, and works of art that do not constitute such historical monuments or artifacts. CITES specimens protected by the Washington Convention, on the other hand, are the species directly or indirectly threatened with extinction listed in the three appendices to the Convention.

Preservation of endangered plant and animal species by regulating their trade is one of the important objectives of international nature conservation. This problem is extremely complicated from the legal point of view since it encompasses three types of regulations: international, EU and national ones, and the relations between them are complex. The starting point is undoubtedly the Convention on International Trade in Endangered Species of Wild Fauna and Flora, CITES.

Convention on International Trade in Endangered Species of Wild Fauna and Flora has been one of the most prominent international legal instruments relating to protection of species in the last 40 years. Today, 183 countries are parties to it, including all member states of the European Union. It was established to maintain international trade in wild animals and plants at a level that does not endanger their presence in the wild. The Washington Convention is an act of public international law that regulates trade in over 34,000 species of wildlife. Its aim is to subject international trade in wild species to adequate controls. The system of such monitoring stipulates that import and export of species covered by the Convention is possible only after obtaining appropriate permits or certificates. Each state that is a party to the convention has been obliged to designate the administrative bodies i.e. **minister responsible for issues related the environment**. His role is to issue permits and certificates. The designation requirement includes also scientific bodies - **The State Council for Environmental Protection** acting in advisory capacity. The Convention regulates in detail the procedures for issuing permits and certificates and defines deviations from these rules.

The European Community is not a party to the Washington Convention, but has implemented its applicability on its territory by Council Regulation (EEC) No 3626/82, which was repealed on 1 June 1997 and replaced by Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of free-living animals and wild plants by regulating trade therein. This regulation, together with more than a dozen secondary legislation pieces and provisions, forms the backbone of community law, which covers plant and animal species with more far-reaching and broad protection than the Washington Convention.

Additionally, one must mention the provisions of domestic law. Polish law regulates CITES through the Law on Nature Conservation dated 14.04.2004. Article 61 of the act defines the conditions for transport across state borders of plants and animals belonging to species restricted under EU law, as well as their recognizable parts and derivative products, while article 128 of the act defines the criminal liability regime.

Domestic legislation is rather complex in its practical application, especially when one takes into account the fact that national regulations can not repeat community regulations which apply directly in EU member states. Internal state regulations can only regulate issues such as organizational affairs and sanctions for violations of community regulations. Finding a sensible and practicable solution is an important task facing each member state of the European Union.

For a definition of "processed specimen", see Article 2(w) of Council Regulation (EC) No 338/97

processed specimens that were acquired more than 50 years previously can be defined as specimens "that have been significantly altered from their natural, original state for the purpose of producing jewelry, ornament, work of art, usable item, or musical instrument, more than 50 years before the entry into force of this Regulation (3) and that were, in the opinion of the administrative authority of the particular Member State, acquired in that state. Such specimens are considered processed only if they clearly fall into one of the above categories and in no way require further shaping, crafting or processing to serve the purpose for which they are intended."

Specimens that fall into the category of processed specimens are commonly referred to as "antiques".

This definition can be broken down into the following criteria, all of which must be evaluated: the item was manufactured/processed before March 3, 1947.

the object has been substantially altered from its natural state, the object can be clearly attributed to one of the following categories: jewelry, ornaments, works of art, utilitarian objects, musical instruments, and does not require further shaping, crafting or processing to fulfill the purpose for which it is intended, the administrative authority of the Member State concerned is satisfied that the object has been obtained in such a state.

The subject of international trade in endangered species of fauna and flora is, due to its scope and significance, one of the most important problems in environmental protection, especially biodiversity conservation.

Grounds for smuggling of CITES species

- Rarity (endemics) and limited resources
- Significant price difference and trade factor
- Increasing tourist traffic
- Easy to obtain
- Low efficiency of border controls
- Perpetrators of smuggling feel unpunished
- Ease of hiding smuggled specimens
- Lack of awareness of CITES crime among relevant authorities
- Lack of public awareness about CITES and punishment for breaking the law

The phenomenology of CITES crime

- Scale of crime → less than 1% of total crime, 10-20 billion dollars per year
- Crime dynamics → stable (NOTE seasonality)!
- Crime structure → fauna/flora, smuggling/illegal trade
- Geography of crime → borders, domestic market, cyber trade
- Nationality/citizenship of offenders

Examples of the most commonly smuggled CITES specimens

- Live pets
- Live plants (Cactaceae spp., Agave spp.)

- Caviar (*Acipenseriformes* spp.)
- European eel (*Anguilla anguilla*)
- Leeches (*Hirudo medicinalis*)
- Corals and shells (*Scleractinia* spp., *Milleporidae* spp., *Tridacnidae* spp., *Strombus gigas*)
- Ivory (*Elephantidae* spp.)
- Taxidermy specimens (*Pythonidae* spp. *Crocodylia* spp., *Varanus* spp., *Pangolin*. spp, *Canis lupus*, *Lutra lutra*, *Ursus arctos*)
- Exotic wood (*Dalbergia latifolia*)
- Leather products
- Traditional Asian Medicine - (*Hippocampus coronatus*, *Hirudo medicinalis*, *Ursidae* spp., *Moschus* spp., *Hoodia* spp.)

Modus operandi of the perpetrators of illegal trafficking

- Trade in species prohibited by the Washington Convention
- Falsification of documentation concerning origin of species
- Trade in species other than those described in the permit
- Trafficking in more specimens than described in the permit
- Declaring a different origin of species than specified in the permit
- Altering the appearance of animals or plants
- Declaring that species sold are merely similar to protected species

Examples of penalties

- **Poland** – imprisonment from 3 months to 5 years
- **Germany** – for CITES offences a fine from EUR 10,000 to EUR 50,000, for CITES offences imprisonment for up to 5 years
- **Slovakia** – for CITES offences a fine from €80 to €16,600, for CITES crimes from €1,500 to €33,000
- **Globally** – fine (16), fine + imprisonment (99), imprisonment (3)
- **It is not the harshness of the penalty, but its inevitability** that stop from committing the crime (Cesare Beccaria)

Cooperation of law enforcement agencies

- Domestic bodies
- International cooperation