

EU Study on “Cross-border restitution claims of looted works of art and cultural goods”

The European Parliamentary Research Service (EPRS) has published the results on its Study “Cross-border restitution claims of looted works of art and cultural goods”. The objective of the Study is described as follows:

“Works of art and cultural goods looted in armed conflicts or wars usually travel across several borders when they are sold. The cross-border character of looted art creates legal challenges for restitution claims as they often concern various national jurisdictions, with differing rules, as well as fragmented and insufficiently defined legal requirements in international and European legal instruments. Against this background, this European Added Value Assessment identifies weaknesses in the existing EU legal system for restitution claims of works of art and cultural goods looted in armed conflicts and wars. Moreover, it outlines potential legislative measures that could be taken at the EU level and that could generate European added value through simplification and harmonisation of the legal system in this area.”

Against this background, the Study deals, inter alia, with

- (i) shortcomings of Article 7 no. 4 Brussels Ibis Regulation;
- (ii) possible improvements of choice of law in relation to cultural property such as the question of a “lex originis” as a potential variation to the *lex rei sitae* under certain circumstances;
- (iii) potential amendments on the level of substantive law such as e.g. the accession of the remaining Member States to the UNIDROIT Convention on Stolen or Illegally Exported Cultural Goods or, alternatively, autonomous means of incorporating elements of this Convention or relevant provisions of the DCFR by extending 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;

- (iv) the special issue of Holocaust related claims for restitution, including options for developing an adequate sales law;
- (v) accompanying measures on EU level such as increasing data exchange of results from provenance research or setting up a EU Agency for the Protection of Cultural Property.

The legal basis for this Study is the following: In accordance with Article 225 of the Treaty on the Functioning of the European Union (TFEU), the European Parliament has a right to ask the European Commission to take legislative action in a particular area. Such requests are based on a legislative initiative report by the parliamentary committee responsible. On 16 February 2016, the Conference of Presidents of the European Parliament authorised its Committee on Legal Affairs (JURI) to draft a legislative initiative report on cross-border restitution claims of looted works of art and cultural goods.

All legislative initiative reports must automatically be accompanied by a detailed European Added Value Assessment (EAVA). Accordingly, the JURI Committee asked the Directorate-General for Parliamentary Research Services (EPRS) to prepare an EAVA to support the legislative initiative report on the cross-border restitution claims of works of art and cultural goods looted in armed conflicts and wars. The Rapporteur is Pavel Svoboda (EPP, Czech Republic), Chairman of the JURI Committee. The author of the Study is Dr Christian Salm, Policy Analyst, European Added Value Unit. The Study is based on an externally commissioned scientific study ("Annex I") by the author of these lines. Both texts are available [here](#).