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World crime trends and emerging issues and responses in the field of crime prevention and criminal justice

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

Report of the Secretary-General

Summary

Pursuant to Economic and Social Council resolution 2010/19, the present report provides an overview of the activities undertaken by the United Nations Office on Drugs and Crime to provide follow-up to the recommendations of the expert group on protection against trafficking in cultural property (E/CN.15/2010/5), explore the development of specific guidelines for crime prevention with respect to trafficking in cultural property, and contribute to the cooperative network established among competent international organizations.

* E/CN.15/2012/1.



I. Introduction

1. The present report was prepared pursuant to Economic and Social Council resolution 2010/19, entitled “Crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking”. In its resolution, the Council reiterated 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 reaffirmed in that regard the need to strengthen international cooperation in preventing, prosecuting and punishing all aspects of trafficking in cultural property. The Council also expressed its alarm at the growing involvement of organized criminal groups in all aspects of trafficking in cultural property, and urged Member States to adopt several measures to promote the protection of cultural property. The present report provides an overview of the activities undertaken by the United Nations Office on Drugs and Crime to assist Member States in their crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking.

2. Pursuant to resolution 2010/19, the United Nations Office on Drugs and Crime (UNODC) provided appropriate follow-up to the recommendations of the expert group on protection against trafficking in cultural property (E/CN.15/2010/5), made at its meeting held in Vienna from 24 to 26 November 2009. UNODC also undertook technical assistance activities to assist Member States in more effectively preventing and combating trafficking in cultural property. Those activities were conducted in close cooperation with members of the cooperative network consisting of UNODC, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Council of Museums, the International Criminal Police Organization (INTERPOL), the International Institute for the Unification of Private Law (Unidroit) and the World Customs Organization.

II. Follow-up to the recommendations of the expert group on protection against trafficking in cultural property

3. In paragraph 2 of its resolution 2010/19, the Economic and Social Council requested the United Nations Office on Drugs and Crime, in accordance with its mandate, as a complement to existing work and in close cooperation with UNESCO and other competent international organizations, to provide appropriate follow-up to the recommendations of the expert group on protection against trafficking in cultural property (E/CN.15/2010/5), made at the expert group’s meeting in 2009,¹ to convene at least one additional open-ended intergovernmental expert group meeting, and to submit to the Commission on Crime Prevention and Criminal Justice, at its twenty-second session, practical proposals for implementing, where appropriate, the recommendations of the expert group meeting on protection against trafficking in cultural property, giving due attention to aspects of criminalization, international cooperation and mutual legal assistance.

¹ The report on the meeting of the expert group on protection against trafficking in cultural property held in Vienna from 24 to 26 November 2009 is contained in document UNODC/CCPCJ/EG.1/2009/2.

4. The second meeting of the expert group on protection against trafficking in cultural property is to be held in Vienna from 27 to 29 June 2012. The expert group is expected to prepare practical proposals for implementing the recommendations made at the meeting of the expert group held in 2009 (E/CN.15/2010/5). It will also consider an analysis and a report based on comments provided by Member States on the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property,² including views on its potential utility and possible amendments.

5. In paragraph 7 of its resolution 5/7, entitled “Combating transnational organized crime against cultural property”, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime requested its Open-ended Working Group of Government Experts on Technical Assistance and the Open-ended Working Group on International Cooperation to examine the relevant recommendations and outcomes of the expert group on protection against trafficking in cultural property established in the framework of the Commission on Crime Prevention and Criminal Justice, and to make recommendations for consideration by the Conference, in order to promote the practical application of the United Nations Convention against Transnational Organized Crime, by considering the extent and adequacy of existing norms as well as other normative developments, with due attention to aspects of criminalization, international cooperation including mutual legal assistance and extradition, with regard to that matter. The two working groups will hold a meeting on the margins of the sixth session of the Conference, to be held in Vienna on 15-19 October 2012.

6. In order to provide appropriate follow-up to the recommendations of the expert group on protection against trafficking in cultural property (E/CN.15/2010/5), UNODC took the following actions, in close cooperation with UNESCO and other competent international organizations.

7. The Office convened an informal expert group meeting in Vienna on 21-23 November 2011 to develop specific guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property. The guidelines include, inter alia, the criterion of due diligence when acquiring a cultural object (in response to the recommendation of the expert group contained in E/CN.15/2010/5, para. 8). At the meeting, UNODC worked in close cooperation with UNESCO, Unidroit and other relevant organizations to identify technical assistance requirements for the implementation of crime prevention provisions applicable to protection against trafficking in cultural property (see E/CN.15/2010/5, para. 30).

8. The Office invited all Member States to submit in writing their views on the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property, including on the practical utility of the model treaty and on whether any improvements to it should be considered (see E/CN.15/2010/5, para. 9). A report on those views will be submitted to the Commission on Crime Prevention and Criminal Justice at its twenty-second session.

² *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, resolution 1, annex.

9. The Office has encouraged all Member States, through the specific guidelines for crime prevention with respect to trafficking in cultural property, to use the model export certificate for movable cultural property, jointly produced by UNESCO and the World Customs Organization, and offers to assist Member States in promoting its utilization (see E/CN.15/2010/5, para. 10).

10. The Office joined the network established among UNESCO, Unidroit, the International Council of Museums, INTERPOL and the World Customs Organization and collaborated with competent institutions to address the crime prevention and criminal justice aspects of trafficking in cultural property by attending and organizing meetings and developing tools in close cooperation with the network (see E/CN.15/2010/5, para. 21).

11. The Office promoted and organized seminars, workshops and similar events for the purpose of raising awareness and building capacity with respect to protection against trafficking in cultural property (see E/CN.15/2010/5, para. 28).

12. The Office collected and disseminated best practices in countering trafficking in cultural property via the Internet, including at the expert group meeting held in Vienna on 21-23 November 2011 (see E/CN.15/2010/5, para. 33).

13. Through the present report, the Office has reported on the implementation of the recommendations of the expert group (see E/CN.15/2010/5, para. 34).

III. Development of specific guidelines for crime prevention and criminal justice responses with respect to trafficking in cultural property

14. Pursuant to paragraph 16 of Economic and Social Council resolution 2010/19, UNODC convened an informal expert group meeting in Vienna on 21-23 November 2011 to develop specific guidelines for crime prevention and criminal justice responses with respect to trafficking in cultural property. Twenty experts from 16 countries participated in the meeting in a personal capacity. Representatives of UNESCO, Unidroit, INTERPOL, the Carabinieri of Italy and the UNODC Country Office in the Islamic Republic of Iran participated in the meeting. Nine representatives of Member States attended the meeting as observers, pursuant to the decision of the extended Bureau of the Conference of the Parties to the United Nations Convention on Transnational Organized Crime taken at its meeting held in Vienna on 29 June 2011.

15. At its meeting, the expert group considered a first draft of the specific guidelines for crime prevention and criminal justice responses with respect to trafficking in cultural property, prepared by UNODC in September 2011. Participants shared relevant practical examples, best practices and comments that contributed significantly to the development of the guidelines. A second draft of the guidelines, which reflected relevant information provided during that meeting, was prepared in December 2011. The final version of the guidelines, reflecting further comments received, will be made available on the UNODC website by the end of March 2012. Their translation into the six official languages of the United Nations depends on the availability of funds.

16. The guidelines are organized into three parts — prevention, criminal justice responses and international cooperation — and are aimed at assisting law enforcement officers, prosecutors, magistrates, public and private institutions such as museums and auction houses, and other competent authorities in more effectively protecting cultural property from being trafficked. The participation and contribution of representatives of UNESCO, Unidroit and INTERPOL in the expert group meeting ensured that the guidelines were complementary to existing technical tools on trafficking in cultural property and avoided duplication and overlap. The guidelines include references to databases, manuals and training programmes and activities undertaken by competent international organizations. UNODC will use the specific guidelines as a technical assistance tool to deliver training to practitioners at the national, regional and international levels, in particular in the area of criminal justice responses to trafficking in cultural property.³

IV. Contribution of the United Nations Office on Drugs and Crime to the cooperative network for protection against trafficking in cultural property

17. In its resolution 2010/19, the Economic and Social Council requested UNODC to join UNESCO and other relevant international organizations in promoting and organizing meetings, seminars and similar events to which the Office could contribute as regards the crime prevention and criminal justice aspects of protection against trafficking in cultural property, and encouraged UNODC to continue to contribute to the cooperative network established among UNESCO, the International Council of Museums, INTERPOL, Unidroit and the World Customs Organization in the areas of trafficking in cultural property and its recovery and return.

18. Representatives of UNODC participated in several meetings organized by the members of the cooperative network for protection against trafficking in cultural property. UNODC participated in the sixteenth and seventeenth sessions of the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation, held in Paris on 21-23 September 2010 and on 30 June and 1 July 2011. UNODC also participated in the thirty-sixth session of the UNESCO General Conference, in particular the meetings of the UNESCO Culture Commission, held in Paris on 3-5 November 2011.

19. Representatives of UNODC participated in the eighth meeting of the INTERPOL Expert Group on Stolen Cultural Property, held in Lyon, France, on 4-6 April 2011, and the eighth International Symposium on the Theft of and Illicit Traffic in Works of Art, Cultural Property and Antiques, held in Lyon on 18-20 October 2011. UNODC will also participate in the ninth meeting of the INTERPOL Expert Group on Stolen Cultural Property, to be held in Lyon on 28 and 29 February 2012.

20. At those meetings, representatives of UNODC led discussions on the Organized Crime Convention and promoted the Convention's use as an effective

³ Such training sessions will be delivered only if funds are made available for that purpose.

international instrument in the fight against trafficking in cultural property, as well as providing information on activities of the Office related to protection against trafficking in cultural property and discussing with representatives of partner organizations modalities for better cooperation and coordination of activities in order to leverage resources and avoid duplication of efforts.

21. At the twentieth session of the Commission on Crime Prevention and Criminal Justice, UNODC made presentations on its work for protection against trafficking in cultural property and on the relevance of the Organized Crime Convention in that regard at two side events: an event on protection against trafficking in cultural property held in collaboration with the Governments of Italy and Ecuador and an event organized with the International Scientific and Professional Advisory Council in conjunction with the launching of the book *Crime in the Art and Antiquities World: Illegal Trafficking in Cultural Property*. A representative of UNESCO also took part in both side events.

V. Recommendations

22. In order to increase the protection of cultural property and prevent its trafficking, the Commission may wish to invite Member States to consider taking the following measures:

(a) Use the specific guidelines for crime prevention and criminal justice responses with respect to trafficking in cultural property developed by UNODC;

(b) Convene joint training seminars involving police officers, border police and customs officers, museum staff, members of the media and other relevant actors to promote greater understanding and cooperation;

(c) Promote cooperation between States at the bilateral, regional and international levels;

(d) Provide UNODC with information and statistics on trafficking in cultural property involving, in particular, organized criminal groups;

(e) Inform UNODC of technical assistance needs such as training programmes and legislative drafting assistance in order to more effectively prevent and combat trafficking in cultural property;

(f) Continue to submit, in writing, comments on the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property, including views on its potential utility and on whether any amendments to it should be considered at the earliest possible date, with a view to assisting the Secretariat in preparing an analysis and a report to the open-ended intergovernmental expert group on protection against trafficking in cultural property at its next meeting, as well as to the Commission on Crime Prevention and Criminal Justice at its twenty-second session;

(g) Use relevant databases and tools already developed by competent international organizations such as UNESCO, Unidroit, INTERPOL, the International Council of Museums and the World Customs Organization to assist Member States in the fight against trafficking in cultural property;

(h) Ratify, if they not yet done so, and implement the existing international instruments relevant to protection against trafficking in cultural property, in particular the Organized Crime Convention.
