



# ***IADAA analysis of Illicit trade in cultural goods in Europe, a study for the European Commission***

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See <https://bit.ly/2Ynd34F>

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## **INTRODUCTION**

This report <sup>1</sup>, commissioned via the Ecorys Consultancy, is the second report after the Deloitte Report <sup>2</sup> into illicit trade in cultural goods within the EU at the behest of the European Commission. That report, published in 2017, was ordered by the European Commission to demonstrate that the problem of trafficked cultural property funding terrorism was extensive, thereby justifying draconian new regulations restricting the import of cultural property into the EU, measures which have been identified as risking extensive damage to the legitimate international art market. The Commission ordered the second report to investigate the size of the illicit trade, about which little or nothing is known. After the first report failed to show any evidence of the funding of terrorism (see page 120 of the first report), the second report comes to the same conclusion <sup>3</sup> while also failing to meet its objective of delineating the size and scope of the illicit trade. Nevertheless, the European Union introduced the new regulations before the Ecorys report had even been submitted.

It is concerning that two of the authors commissioned to conduct this study are anti-trade campaigners working under the umbrella of an anti-trade campaign group. Indeed, Dr Donna Yates has publicly expressed in the media her wish to make the private ownership of antiquities “socially unacceptable”. <sup>4</sup> This is of particular concern as the Abstract at the beginning of the report concludes that “...this study formulates a range of recommendations and concrete steps that the EU Member States should undertake in order to intensify and render more effective their efforts in combatting illicit trade in cultural goods”.

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<sup>1</sup> Illicit trade in cultural goods in Europe: <https://publications.europa.eu/en/publication-detail/-/publication/d79a105a-a6aa-11e9-9d01-01aa75ed71a1/language-en/format-PDF/source-search>

<sup>2</sup> DG TAXUD: Fighting illicit trafficking in cultural goods: analysis of customs issues in the EU [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/annex\\_08\\_dg\\_taxud\\_study\\_fighting\\_illicit\\_trafficking\\_in\\_cultural\\_goods\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/annex_08_dg_taxud_study_fighting_illicit_trafficking_in_cultural_goods_en.pdf)

<sup>3</sup> See page 114: “The interviews conducted for this study did not bring any new evidence to substantiate the connection between terrorist groups and the illicit trade in cultural goods.” Note, also, the follow-up comment on page 115 regarding the exaggeration of this connection: “Nevertheless, the interviewees agree that, all in all, the connection between the issue of trafficking in cultural goods and terrorism financing may have been exaggerated, *but is beneficial*.” (IADAA emphasis to denote the admission that the authorities endorse the use of fake news to promote propaganda.)

<sup>4</sup> Meet Dr Donna Yates, the expert aiming to make antiquities-collecting socially unacceptable, The Herald Scotland, 25<sup>th</sup> April 2016: <https://bit.ly/2LC8ihM>

## ***EXECUTIVE SUMMARY***

- The Ecorys Report – the second ordered by the European Commission to justify draconian import licensing regulations in the fight against cultural goods trafficking – failed in its primary objective of measuring the size, scope and nature of illicit trade in antiquities.
- It also failed to find any reliable statistics pointing to trafficking patterns or routes.
- It also failed to find any evidence of trafficking funding terrorism.
- The Deloitte Report that preceded it also failed to find any evidence of terrorism financing.
- Despite the overwhelming absence of evidence from these two specially commissioned reports, the EU has introduced the new import licensing regulations anyway, going as far as to introduce them BEFORE the second report had even been submitted.
- The lack of evidence and the premature introduction of the legislation prior to research being completed indicate that the European Commission has ignored its own pledge not to introduce measures that unduly damage the legitimate international art market.
- These two reports are not isolated but among a long list of well-funded studies including the €1.2m ILLICID report that have, similarly, failed to find any reliable evidence of illicit trade or trafficking.
- Far from being an independent study, Ecorys employed two high-profile anti-trade campaigners as its leading authors, one of whom has publicly called for the private ownership of antiquities to be made “socially unacceptable”.
- Having found no reliable evidence, the authors attempt to redefine “illicit” and “trafficking” to include legal trade in items that they and others object to on subjective “moral” grounds.
- Despite the brief being to look at the current problem of trafficking, the report focuses much of its efforts on historic case studies dating back to the early 2000s, with one dating back to 1976.
- Despite the brief being to assess the problem of trafficking within the EU, the study included the European Economic Area as well as countries of the Western Balkans, Egypt, Lebanon, Turkey and Russia “due to their importance as sources of or destinations for illicit cultural goods”. This wider scope yielded no reliable evidence.
- The failure to find any reliable evidence did not prevent the authors from making detailed recommendations for further restrictions and regulation of the international art market.

**In brief, as with other reports of its type, the Ecorys report has failed to find evidence to support any of its assumptions and objectives. Specifically, it has failed to find:**

- Any evidence leading to a reliable assessment of the size, scope and nature of illicit trade in antiquities (See page 46)
- Any evidence of trafficking that has funded terrorism. (See page 15)
- Any reliable statistics pointing to trafficking patterns. (See page 16)
- Any reliable evidence revealing trafficking routes. (62 and 63)
- Any evidence of trafficked items being warehoused for future exploitation (page 16), but does acknowledge that the belief that this is happening “should be treated with caution”. (see page 81-82)

Perhaps most worrying has been a general attempt to ‘move the goalposts’ because of the lack of evidence. For example, the researchers’ failure to establish any quantitative evidence of trafficking leads them to shift their focus to “qualitative” data (See page 63). In turn, this leads to a great deal of unreliable extrapolation, whereby they draw wholly fictitious conclusions based on not even the flimsiest of credible evidence or argument. (See pages 88-92)

They also attempt to redefine essential terms such as “illicit” and “trafficking”, to the extent that they effectively outlaw legal trade on moral grounds that themselves are based on nothing more than personal prejudice. (See page 47)



Fig 1: An illustration from the Ecorys report showing objects recovered by Czech and Romanian police during Operation Budweiser in 2016. None of these items would qualify as cultural property under the UNESCO Convention 1970 definition, which makes them irrelevant for the purposes of the Ecorys report, which is only concerned with cultural goods.

**IADAA wishes to raise the following key points, which arise out of the report, its claims and conclusions. A fuller analysis follows.**

1. There is no evidence that items have been ‘put on ice’ for a period until things quieten down, just suspicion from some that this has happened. The first Gulf War was in 1990-91 and items taken then – now nearly 30 years ago – have still not turned up on the market.
2. Because those opposing (legitimate) trade in antiquities cannot find any evidence of wrongdoing to justify stopping it or severely limiting it, they have now started to change the argument from a legal one to a ‘moral’ one.
3. In fact, what we have seen over the past five years is a gradual shift in the anti-trade arguments as they have lost their credibility. First they said the problem with looted antiquities was huge and that it was funding ISIS in Syria to the tune of up to \$7 billion a year. When that was shown to be wrong, they said that the figures didn’t matter (while continuing to quote them) and that the problem was obvious. They then set out to find the evidence via various pieces of research (ILLICID, Deloitte, Ecorys, WCO Illicit Trade Report 2017 etc) and international law enforcement operations (Operation Pandora I, II and III; Operation Athena, Operation Odysseus), but failed to turn up a single piece of evidence demonstrating the financing of terrorism via looted cultural property, let alone looted antiquities or to accurately delineate the size and scope of any illicit trade in antiquities. Now they are changing the argument in two ways: They say that a) the lack of evidence does not necessarily mean that terrorism financing is not happening using cultural property; and b) stringent measures are required from a preventative standpoint even if the anticipated threat has not yet come to pass.
4. Where items have been seized via various law enforcement operations, they have been shown to be overwhelmingly comprised of low-value and unimportant pieces (as the reports’ illustrations show). These do not meet the standard set by the UNESCO Convention 1970 to meet the definition of cultural property: Article 1 of the convention stipulates that “For the purposes of this Convention, the term ‘cultural property’ means property which, on religious or secular grounds, is specifically designated by each State as being of importance for archaeology, prehistory, history, literature, art or science...”. For example, as the Ecorys report explains, the most often seized cultural goods are antiquities (such as inscriptions, coins, small seals and the like) – which would not qualify as cultural property under the UNESCO Convention – and the report notes that 98% of items (43,340 of 44,235) seized in 2015 were coins, 42,000 of them seized in a single operation in Bulgaria. (see pages 74 and 75). On page 84 the report notes: *“It can also be observed that statistics are easily skewed by the type of cultural good being seized, for example one-off seizures of coin hoards balloon the totals.”* The Ecorys report circumvents this inconvenient UNESCO definition by creating its own, much looser definition as “any object which is of importance for archaeology, prehistory, history, literature, art or science...”. (see page 47).
5. The Ecorys study also obfuscates and manipulates when it comes to the definitions of “trafficking” and “illicit trade”. It first states that there is no consistent definition of either, and that they are interchangeable, and then states that illicit trade “could refer to both a transaction forbidden by law or a transaction that is legal but transgresses a moral code”. (see page 47).

**In effect, this means that legal trade can be defined as illicit in the subjective view of anyone who objects to it like, for instance, the report’s authors, who are anti-trade campaigners.**

Further evidence of this inbuilt bias can be seen on page 109 where the report makes the following unsubstantiated claim: “In general, it appears that the conditions in which the art

market currently operates may facilitate criminal behaviour in the case of unscrupulous traders. It is believed that the illicit trade in cultural goods sometimes operates as a mafia-style hierarchical organised crime network...". Note the use of the term "it is believed", which is used as a substitute for any actual evidence to support this claim. It continues: "In addition, all phases of the illicit trade are facilitated by corruption that often involves public officials, police, diplomatic and military staff, and customs agents." (see page 109) Again, a strong claim, but no evidence to support it.

6. Despite the rhetoric of anti-trade campaigners, NGOs, governments and others about what a major priority the fight against illicit trade is, the reality indicates otherwise. During the Ecorys study, for instance, researchers managed to speak to only one customs official across all 28 EU member states (Bearing in mind that the WCO prioritised cultural goods in its 2017 Illicit Trade report <sup>5</sup>, putting it first in the list of sectors assessed, one wonders whether the other 27 Members States had anything to report?) and only two art market sources (the chairmen of IADAA and the Antiquities Dealers Association in the UK). They did not consult a single auction house or collector.
7. Section 1.3 of the Ecorys report reveals that research was not limited to EU member states, but also extended to the European Economic Area and countries of the Western Balkans, as well as Egypt, Lebanon, Turkey and Russia "due to their importance as sources of or destinations for illicit cultural goods". Yet still they did not find what they were looking for. (see page 48)
8. Although the European Commission contracted Ecorys to investigate the current problem of trafficking of cultural property in Europe and its financing of terrorism, the report is based on historical research for evidence dating back to 2000. (see page 49)
9. The report attempts to extrapolate the size of the (legal) European antiquities market from a limited series of auction house and online sales, guesstimating that the material volume and monetary value is "twice to ten times as much as the figures totalled", or "between €64 million and €318 million". It then claims that while these figures are "imprecise and hedged with uncertainty", they have "a firmer evidential base than anything else that has previously been published". They conclude: "*They are not altogether contradictory to the € 200 million figure for the global trade in antiquities (excluding the internet) proposed by IADAA in 2013.*" (see page 92)
10. The Bagot case. This is presented as a *fait accompli* from pages 123-124, giving a number of claims and conclusions based on police allegations concerning looting and trafficking as well as the financing of terrorism. However, as the report itself admits, court proceedings are ongoing. This means that nothing concerning Bagot's alleged guilt has actually yet been established, yet it is being used here as evidence. To date there is not even an indictment in this case and Bagot continues to exhibit outside of Spain with the full knowledge and sanction of the authorities.

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<sup>5</sup> See <https://bit.ly/2QqaIC0>

## Objectives, allegations, claims and conclusions – samples from the report

### **Specific Objective:**

The report notes that “the lack of reliable data on the cross-border nature of trafficking in cultural objects reduces the effectiveness of measures intended to curb the illicit trade in cultural goods. This study was commissioned to respond to the need for a stronger evidence base and better insights into the phenomenon.” (Page 14)

### **Conclusion:**

“As a result of the lack of statistics, the conclusions of this study are predominantly supported by qualitative data.” (Page 63)

### **Specific Objective:**

Having anticipated a poor response rate, the authors attempted to mitigate this “by integrating triangulation of findings from different types of sources in a later stage of the study”. (Page 62)

### **Conclusion:**

This failed because “it became clear that the collected data was not compatible” and “Numerous uncertainties remain”. (Page 62)

### **Specific Objective:**

The study lists as its specific objective the gathering, analysis and dissemination of information, as well as cross-reference data, on key characteristics of the illicit trade in cultural goods into, from and within the EU, including the source, transit and destination of illicitly traded goods, as well as trafficking routes. (Page 46)

### **Conclusion:**

**“Trafficking routes involved are largely unknown to anyone except for the traffickers themselves”.** Where they do provide examples of trafficking routes in case studies, these are not for cultural property, but conclude **“Globally, traffickers of cultural goods may use the same routes”**. (Page 16)

And

Most interviewees also stated that **the trafficking routes of illicit cultural goods are not special: traffickers of cultural goods use the same routes as traffickers of other illicit goods** (e.g. firearms, drugs). (Page 104)

And

The authors conclude: **“The implication of this observation is that this study has not been able to measure the parameters of the illicit trade directly, but has had to use proxies.”**

And

**“Measuring or estimating the size of the illicit trade in cultural goods proves to be a challenging task as no reliable statistics exist that can be used to provide a comprehensive picture.”** (Page 15)

And

**“In the view of these problems, this study has produced an estimate of the volume and value of the trade in cultural goods based on snapshot analyses of the online sales in antiquities and ancient and medieval coins.”** (Page 15)

**Specific Objective:**

It also wishes to measure the dimensions, trends and patterns of trafficking, including volumes.  
(Page 46)

**Conclusion:**

“The scale of looting, trafficking, and the amount of money generated from these activities as well as exact nature of involvement of terrorist groups in the illicit trade in cultural goods remain unclear.”  
(Page 16-17)

And

“The interviews conducted for this study did not produce any new evidence to substantiate the connection between terrorist groups and the illicit trade in cultural goods.” (Page 17)

**Specific allegation:**

The absence of evidence must mean “hot” items are being warehoused for future exploitation.  
(Page 16)

**Conclusion:**

“There is no evidence to support this opinion, however, and it should be treated with caution.”  
(Page 81-82)

**Specific claim:**

“The three-year ILLICID project aimed at developing and applying methodologies for measuring the illicit trade of cultural objects inside Germany is supported by €1.2 million funding from the Bundesministerium für Bildung und Forschung (SPK, 2015). This is the first study of a realistic scale for measuring the size of the market in one country alone.” (Page 162)

**Conclusion:**

“Currently, however, no coherent statistics or data are available.”

Note: ILLICID has now published its report and has not been able to find any relevant statistics for measuring the illicit trade of cultural objects inside Germany.

# DETAILED ANALYSIS

## Executive Summary (Page 14)

The report notes that “the lack of reliable data on the cross-border nature of trafficking in cultural objects reduces the effectiveness of measures intended to curb the illicit trade in cultural goods. This study was commissioned to respond to the need for a stronger evidence base and better insights into the phenomenon.”

The problem with this statement is that, having conducted numerous studies and operations, such as Operations Odysseus, Athena and Pandora, between them Interpol, Europol, the World Customs Organisation <sup>6</sup>, the European Commission and others have consistently failed to find any evidence of this phenomenon yet still assume that it is a large and growing issue. Bearing in mind that the authors are anti-trade campaigners and that, as with Germany’s ILLICID project, they are making assumptions on the level of the problem before investigating it, the risk of confirmation bias and ignoring data that does not fit those assumptions is considerable.

It is notable that the study emphasises in bold the “**severe challenges in the data collection**” on page 15. This appears to be anticipating the failure of the report to find the evidence the authors are seeking. **It notes, for example, on page 61 of the report, that the response from Customs was too low to be able to draw any reliable conclusions from their responses.** This being the case, how useful can this report prove?

The authors confirm that in talking about antiquities, they include ancient objects from several regions across the world, including Asian art, Islamic art and tribal art from Africa and Asia. However, they do not appear to include ancient artefacts from the Americas or the Pacific. (Page 15)

**Having noted that data is almost impossible to come by, they rely on analysing a section of the legitimate trade, presumably to extrapolate figures regarding illicit trade from them, although there is no correlation between the two, a fact they, themselves, acknowledge. (Page 15) <sup>7</sup>**

They also report that a significant shift of trade online has put lower value, smaller items at greater risk, while also encouraging the promotion of fakes. (Page 16)

**They admit that “trafficking routes involved are largely unknown to anyone except for the traffickers themselves”.** Where they do provide examples of trafficking routes in case studies, these are not for cultural property, but conclude “**Globally, traffickers of cultural goods may use the same routes**”. (Page 16) <sup>8</sup>

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<sup>6</sup> See 3.3.3 *On the numbers that do exist*, page 83: “The WCO compiles annual Illicit Trade Reports (ITR), which has included a dedicated chapter on cultural heritage since 2015 (WCO n.d.). The numbers mentioned in these sections are based on voluntary reporting by countries to the WCO through the Customs Enforcement Network (CEN). **The WCO itself indicates and stresses that these numbers should not be taken as representative, comprehensive or fully reliable** because they represent only a small sample. As one of the few publications actually reporting numbers, the ITR figures are still relevant and the table below summarises some key indicators from these reports.” As IADAA’s analysis of the WCO Illicit Trade Report 2017 shows, by any of the four measures available, illicit trade in cultural goods – covering the entire art market, not just antiquities – barely registers compared to other sectors and accounts for around 0.2% of activity. If, as the WCO argues, the figures are “representative”, this confirms what IADAA has been saying about the relative risk of trafficking in cultural goods.

<sup>7</sup> See, also, 3.3.4 *How a (tentative estimate can be compiled*, page 87 and a further example of extrapolation at *ibid* page 91: “The high number of antiquities being sold on eBay UK stands out, and there will be more antiquities on other national eBay sites. A certain, and perhaps large, proportion of the cultural objects available for sale on these sites are likely to be fake.” See also *Estimation of the volume and monetary value*, tint panel, *ibid* page 92. Et al onwards to page 96.

<sup>8</sup> See page 104



### **Study Objectives and research questions (Page 46)**

The study lists as its specific objective, the gathering, analysis and dissemination of information, as well as cross-reference data, on key characteristics of the illicit trade in cultural goods into, from and within the EU. It lists these characteristics as:

- source, transit and destination of illicitly traded goods;
- trafficking routes;
- Dimensions, trends and patterns of trafficking;
- Illicit trade operations and actors involved (especially involvement of organised criminal groups).

It then sets out three questions based on this premise, which it aims to answer and from which it will develop policy recommendations for the EU.

The three questions are:

1 How can illicit trade in cultural goods in the EU be described in terms of:

- A. trafficking routes into, out of and through the EU?
- B. Volumes?
- C. Object types? And
- D. Operational modes (means of transport, actors and agencies, methods of transaction)?

2 What are the criminal justice responses to trafficking in cultural goods and what are the challenges faced by the relevant authorities in implementing effective responses?

3 What new technologies can be used for identifying illicitly-traded objects and for improving information sharing and other forms of inter-agency co-operation and collaboration?

Looking at the report's conclusions, it is clear that it has failed to find the evidence to answer 1A and 1B – especially as it has had to assume that interviewees are correct in saying that trafficking routes from other sectors are the same as those used by those trafficking cultural goods<sup>9</sup>. Questions 2 and 3 can easily be answered by the measures already passed in the new EU import licensing regulations, which this report is supposed to address. Bearing in mind that the law has already been adopted, it is unclear why this report is addressing exactly the same questions again.

### **Terminological note (Page 47)**

Although it is widely acknowledged that this report and the legal measures already introduced are overwhelmingly aimed at antiquities, the report makes it clear here that its use of the term "Cultural goods" applies to a much wider set of art and artefacts. This is a weakness because it leads to confusion between the two entirely separate categories.

### **Methodology (Page 52)**

The data collection paragraph (2.1) makes it clear that all new data is gathered as the result of interviews and surveys. It also reveals that the report is based on a first round set of interviews totalling 36 interviews across all stakeholders – law enforcement, customs, public prosecutors, governments, authors, auction houses, art dealers and art dealer associations – across the EU 28 Member States, and a second round of interviews totalling 23 interviews, of which 5 were in writing. This is misleading because the report's own annex reveals that no auction houses or art dealers were consulted, with consultation being limited to two dealer associations.

Online surveys elicited 124 complete responses from 39 countries across all disciplines, as far away as Australia and New Zealand. The authors noted that this was a "low response rate" (Page 60) and that in some cases (eg Customs) **it was too low to be able to draw any reliable conclusions (Page 61).**

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<sup>9</sup> Ibid

All of the above was complemented by what the authors refer to as ‘snapshot’ sampling of online markets such as the Sixbid aggregator site for coin auctions, while admitting its shortcomings (Page 56).

### **Links with organised crime and terrorism financing (Page 16)**

Acknowledging that the art and antiquities market, for the most part, “denies that illicit trade in cultural goods is a wide-spread phenomenon”, the authors effectively argue that the market must be wrong about this because “law enforcement stakeholders overwhelmingly recognise the problem and indicate that organised crime is involved at all stages”. Despite this, and all of the reports, projects, studies and operations over a number of years – including this one – they still cannot come up with the evidence to show this. They persist in this vein throughout the report, but without ever supporting the claim with any evidence.

**They also admit that despite extensive research for this report “The interviews conducted for this study did not produce any new evidence to substantiate the connection between terrorist groups and the illicit trade in cultural goods”. (Page 16)**

They note that “only one relevant case connecting the trade to terrorist financing has been brought to a European court”; however, this is the Bagot case, which is ongoing. To date there is not even an indictment in this case and Bagot continues to exhibit outside of Spain with the full knowledge and sanction of the authorities. It is now far from clear that any terrorism links are involved, after all. (Page 16)

The absence of evidence must mean “hot” items are being warehoused for future exploitation, the report argues. True or not, again they have no evidence of this.<sup>10</sup> (Page 16)

Bearing in mind that the primary and overwhelming purpose of this report is to justify the EU counter-terrorism measures built into the new import licensing regulations, it is astonishing that the authors then recommend that too much emphasis is being paid to this subject and that this could “potentially result in criminal justice and other responses that fail to address other significant aspects of the greater illicit trade in cultural goods”. (Page 16)

**Effectively, the authors are covering here for the failure of the report to find any relevant evidence. So poor are their findings that they have had to admit to finding no new evidence of terrorism financing – one of the chief objectives of their research – and the only trafficking routes they rely on are concerned with other sectors.**

### **Shortcomings, limitations, mitigation measures (Page 60)**

As the authors admit, by their nature, criminals do not report their activities, so they are hard to measure. This means that the report is largely based on monitoring activity on the legitimate market and pointing out where they feel its transparency falls short. However, this provides no reliable picture or measure of illicit activity and they conclude: **“As a consequence, the general lack of reliable statistics on the topic of illicit trade in cultural goods posed a challenge to the research team.”** (Page 60) This again indicates that they did not meet their specific objective, although this did not prevent them from making recommendations based on what amounted to a lack of evidence.

In 3.3.1 on page 78, the authors note the widely quoted but now discredited claims of the illicit trade in antiquities being worth billions of dollars, adding: “The origins of the outlandish billion dollar figures are now obscure, but are usually traced back to Interpol..”

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<sup>10</sup> See page 81-82: Here it addresses this issue and the report advises: “There is no evidence to support this opinion, however, and it should be treated with caution.”

While Interpol was, indeed, one of the sources, another, which has been heavily relied on, was Dr Brodie himself, one of the authors of this report. Importantly, the figure of \$2 billion quoted on page 23 of the Brodie, Doole and Watson report *Stealing History*, published in 2000<sup>11</sup>, was attributed to a 1990 article from *The Independent*<sup>12</sup> newspaper, which gave no figure at all. While this error has now been acknowledged, UNESCO used the \$2 billion figure in its 2011 report, *The Fight against the Illicit Trafficking of Cultural Objects...*<sup>13</sup> crediting Brodie, Doole and Watson, and this, in turn, was quoted by the European Commission to justify introducing the new import licensing regulations that the Ecorys report addresses here<sup>14</sup>.

**The Ecorys report goes on to state: “As a result of the lack of statistics, the conclusions of this study are predominantly supported by qualitative data.”** (Page 63)

And

**Reliable statistical descriptions of the material volume and monetary value of the illicit trade in antiquities and other cultural goods do not exist.** (Page 77)

The authors deftly sidestep this difficulty as follows: *“This was anticipated from the beginning of the study. To deal with this, the approach of the study was adjusted by shifting the focus from examining the available statistics, which have complications to the point of being of limited use, towards understanding why this lack of statistics exists in the first place. The study takes a step back to evaluate the fundamentals, aiming to understand the causes for the lack of statistics.”* (Page 60)

However, as the specific objectives were to acquire data on volumes and trafficking routes, both of which the report failed to do, this seems to be no more than a side issue.

**The authors also explain how they had anticipated a poor response rate and had attempted to mitigate this “by integrating triangulation of findings from different types of sources in a later stage of the study”, but then admitted that this had failed because “it became clear that the collected data was not compatible” and that “Numerous uncertainties remain”.** (Page 62)

**They also reveal that while 14 interviews were conducted with police, they only conducted one with Customs and two with the art market<sup>15</sup> (both with dealer associations), none with public prosecutors and one with academic authors.** (Page 62)

### **Robustness of research (Page 65)**

The credibility of the report is no better here. Under para 2.4.1. concerning the problems with data collecting, they note: “it was rarely possible to verify the data obtained from one source with the data from another one”, adding that “The task of obtaining a complete picture of the illicit trade in cultural goods proved equally challenging.”

In other words, just a quarter of the way into the report, the authors have already admitted:

- Their response rates were poor and their survey samples are unreliable.
- They only interviewed one members of Customs and two members of the art market.
- They have been able to gather no reliable statistics.

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<sup>11</sup> Brodie, Doole and Watson, *Stealing History: The Illicit Trade in Cultural material*, 2000, [https://www.museumsassociation.org/asset\\_arena/6/25/8526/v0\\_master.pdf](https://www.museumsassociation.org/asset_arena/6/25/8526/v0_master.pdf)

<sup>12</sup> Norman, Geraldine, *Great sale of the centuries*, *The Independent*, November 24, 1990: <http://goo.gl/K2yHNx>

<sup>13</sup> UNESCO report: <http://goo.gl/YZnJKX>

<sup>14</sup> European Commission Fact Sheet: *Questions and Answers on the illegal import of cultural goods used to finance terrorism*, 13 July, 2017 <https://bit.ly/2zk1bCl>

<sup>15</sup> One of these was with the ADA, as noted on page 141.

- “As a result of the lack of statistics, the conclusions of this study are predominantly supported by qualitative data.”
- Attempts to mitigate poor data collection via triangulation methods failed.
- They have not been able to identify trafficking routes.

Under para 2.4.2. (Page 65 and 66) – **How we ensure the validity of the results** – the authors acknowledge that although measuring the size and volume of the illicit market was one of the specific objectives of the report, they have failed to do so. They have attempted to overcome this by consulting stakeholders but, as admitted in 2.4.1. , the poor response made this source unreliable too. They explain that **“Given the nature of illicit markets, those involved in illicit activities are often reluctant to share information. Moreover, individuals who are strongly involved in an illicit trade are often difficult to trace, let alone to approach for an interview.”** – an obvious fact that the trade has been pointing out for years only for it to be dismissed by the authors, anti-trade campaigners, who use it here to excuse their own failure.

They also note that while those fighting the illicit trade are more willing to discuss developments, “it is disputable whether the numbers of confiscations, arrests, and cases of crimes related to cultural goods provide an indication of the size and volume of the trade or that they, instead, give insight into the effectiveness of the involved bodies”. This is an astonishing admission considering the authors themselves had attempted to extrapolate just such conclusions from their earlier work, notably Dr Brodie in his joint report from 2000, *Stealing History*, and Interpol, Europol, the WCO and the EU, among others, from Operations Odysseus, Athena and Pandora.

### **Main findings on criminal justice responses (Page 17)**

**Good practices:** The report makes a number of good practice recommendations, most of which involve setting up additional overarching resources to combat the illicit trade they have been unable to identify. Bearing in mind that the EU’s new regulations have already addressed much of this and funding for such resources is clearly not available – especially as evidence of the problem they are supposed to tackle is close to non-existent – it is hard to see the purpose of these proposals.

**Shortcomings:** The authors use this section to call for even more regulation of the art market, claiming that there is a lack of it despite the new EU import restrictions, which are extensive. The report also makes unsubstantiated claims about art market due diligence, the lack of registration of transactions and other matters, again ignoring laws that are even now being updated, such as the 5<sup>th</sup> Anti-money laundering directive, which already makes these things mandatory. (Page 18)

The authors conclude: **“The implication of this observation is that this study has not been able to measure the parameters of the illicit trade directly, but has had to use proxies.”**

Bearing all of the above in mind, one asks whether it is worth bothering to read the remaining 147 pages of the main body of the report. It would also be interesting to know what the cost of putting this report together was.

**Nevertheless, despite the lack of data or ability to meet any of the specific objectives in gathering data on which to base recommendations, this does not prevent the authors from going into considerable detail in making them.**

### **Recommendations (Page 19)**

Having admitted that they have not been able to supply any evidence to support their claims, the authors put forward a series of recommendations “based on best practice”.

These include **Raising the profile of the problem politically**, as if this was not one of the most debated topics internationally already, with huge resources already thrown at it.

**Awareness raising** is another. More generalised, it aims to increase awareness at all levels, encouraging bloggers, social media influencers, journalists and others in what is already a saturated

field. A third recommendation is **further research**, presumably also involving further large fees/grants to go with it. **Transparency in the art and antiquities market should be increased**, they recommend, effectively ignoring the recent new import licensing regulations and update 5AML regulations. **Considering how better to regulate and monitor online sales** is another, although the authors are short on information about how this should be done. **Cross-border co-operation and exchange of data** is another recommendation. Again, this ignores the fact that this has already been enshrined in the new EU import licensing legislation. **Integration and interlinking of national inventories of cultural heritage, museum databases and law enforcement databases** for the purposes of fighting crime is another recommendation. The trade would wholly endorse this, but would also want to be able to gain access to this system for the purposes of due diligence. Ironically, it is the authors' colleagues as well as law enforcement agencies who do not want this to happen. It would deprive Christos Tsirogiannis of his exclusive access to the Becchina and Medici archives, while the Carabinieri made it clear that they would not share data with other databases at least 20 years ago. The Art Loss Register would also be utterly against such a measure as it would probably put them out of business.

One recommendation does address the need for better engagement with the market, although even here the authors say the effectiveness of this is disputed.<sup>16</sup>

A footnote on the same page, quoting IADAA, notes the deteriorating relationship between the market, curators, academics and archaeologists.

#### **Recommendations regarding the Art Market (Page 206)**

For the EU, these are as follows:

- Investigate what legislative measures can be adopted at the EU level to improve transparency of the art industry.
- Support the development of an EU wide, comprehensive, compulsory digitised art register to register all transactions of art and antiquities.
- Develop a legal definition of acceptable provenance.
- Consider novel approaches to licensing the art market, taking into account the reasons why previous attempts failed and paying sufficient attention to ensuring oversight and control.

For Member States, these are as follows:

- Adopt national legislation to improve traceability of cultural goods, for instance by establishing national registries for transactions in cultural goods.
- Implement the 5<sup>th</sup> Anti-Money Laundering directive in such way that it applies to art dealers and free ports.
- Adopt national legislation obliging art dealers to follow clearly defined due diligence guidelines.

While some of these measures have already been taken – for example the 5<sup>th</sup> Anti-Money Laundering directive specifically targets the art market – others would either be too costly or legally impossible to implement, and attempts to do so would threaten the future of the art market itself.

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<sup>16</sup> See page 141

## Summary of findings and conclusions

In brief, the report has established nothing new, as its own conclusions admit, while its own assessment of the robustness of its research, as given on page 65, is damning.

Under para 2.4.1. concerning the problems with data collecting, the authors note: “it was rarely possible to verify the data obtained from one source with the data from another one”, adding that “the task of obtaining a complete picture of the illicit trade in cultural goods proved equally challenging.”

By this point, only a quarter of the way into the report, the authors have already admitted the following:

- Their response rates were poor and their survey samples unreliable.
- They only interviewed one members of Customs and two members of the art market.
- They have been able to gather no reliable statistics.
- “As a result of the lack of statistics, the conclusions of this study are predominantly supported by qualitative data.” In other words, guesswork, coloured by their own position as anti-trade campaigners.
- Attempts to mitigate poor data collection via triangulation methods failed.
- They have not been able to identify trafficking routes.

The study’s self-admitted failure to capture reliable data yet again demonstrates how difficult crime in this area is to assess; nonetheless, yet again too, this does not deter anti-trade campaigners from stating as fact that the trafficking of cultural goods is a huge problem. How can they possibly know if no one has evidence or data to support this? What they and others are clearly relying on is speculation, rumour and prejudice. In other words, confirmation bias. This is not the way to conduct serious research and formulate policy.

Further to this, the people who excuse the failure of their own research by arguing that it is too difficult to capture reliable data and evidence are the very same people who demand incontrovertible documentary evidence from the trade that every item they deal in must have an honest provenance back to the point of creation or discovery. They dismiss out of hand the trade argument that this information is often simply not available. Why is this double standard not only tolerated but championed by the authorities?

The European Commission and Parliament, as well as Europol, Interpol, UNESCO and the World Customs Organisation <sup>17</sup>, constantly emphasise what an important and urgent problem the trafficking of cultural goods is and have now introduced draconian legislation on EU imports as a result, despite failing to find any evidence to show that this is so while conducting two major reports over a period of several years. In addition, despite the urgency these bodies place on the issue, the authors managed to conduct only one Customs interview across all 28 EU Member States and only two interviews with the most heavily affected sector of stakeholders, the international art market. No auction houses or collectors were interviewed at all.

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<sup>17</sup> See 3.3 Volume of trade, 3.3.1 Measuring illicit trade: impossible at worst, difficult at best, page 78: Here the authors note the unreliability of WCO claims that trafficked works of art “is one of the world’s biggest illegal enterprises, worth billions of US dollars”. They then go on to say that “approaching the illicit trade in cultural goods from a purely economic perspective is wrong”, despite the fact that both authors have emphasised this element in the past to make their case against the trade. Having failed to find the evidence to show this is the case, and now admitted that it isn’t, they change the emphasis.

On the same page they discuss the origins of the fake figures, neglecting to mention Dr Brodie’s own role in this in misquoting Geraldine Norman’s November 24, 1990 *Independent* article, *Great Sale of the Centuries*, in his 2000 joint report *Stealing History*, a report then used as the basis of this claim by UNESCO (in 2011) and the European Commission (in 2017) in justifying the new EU import licensing regulations which this current report was also commissioned to address. It is also notable that they finally point to the misleading Interpol claims (now deleted) that IADAA has been pointing out for years, yet which have been utterly ignored in all debates until now.

How does the lack of engagement by the authorities reflect the priority status of this issue? The authors identify the lack of engagement and political will – and ensuing lack of resources – as perhaps the chief obstacle to progress in this field. They clearly assume that with better funding (fulfilling the unrealistic level of recommendations on this basis would involve vast sums and personnel) would lead to better data, which would reveal the enormous trafficking problem that they believe exists but cannot find. However, this ignores the fact that close to no evidence at all exists when, even with modest funding and established networks of authorities, one would expect a far greater incidence of trafficking to emerge in the general run of activity if it was there.

It may well be that with better political will and far greater resources, it might be easier to mine more reliable data on the legitimate art market and even improve standards of behaviour in a way that does not damage the market, but this would not help the authorities in building a more reliable picture of illicit activity because that cannot be extrapolated from the legitimate market.

Bearing all of the above in mind, the report's conclusions seem to be based on little more than the authors sticking their fingers in the air to see which way the wind is blowing. Considering that at least two of the authors are anti-trade campaigners, their conclusions cannot be relied on in any way whatsoever and, consequently, this calls into question the relevance and appropriateness of their recommendations.

