



IADAA NEWSLETTER JANUARY 2025

Update on the European Union Import Licensing Regulation

As subscribers will know, IADAA has been campaigning for more than eight years on the issue of import licensing for cultural goods entering the European Union. The restrictive law (2019/880) passed in 2019 and due to come into force from June 28 this year remains highly problematic.

Together with our colleagues in the Antiquities Dealers' Association, we launched a campaign group almost two years ago to spread the word about our concerns and to see what we could do to improve the situation. Many other influential individuals and groups within the market have joined that group, committing funds and expertise to the cause.

We have recently submitted a detailed set of questions on outstanding issues with the regulation to the French Culture Ministry for consideration prior to forwarding them to the European Commission. As the leading art market in the EU



following Brexit, France's views on the issue are of vital importance.

These questions demonstrate that the gaps in knowledge that remain will prevent even the most willing importer from fully complying with the law. Importantly, these unanswered questions also mean that the Culture Ministries who will oversee enforcement as competent authorities, and Customs, will also not be able to prepare sufficiently. This matters because without proper preparation enforcement is unlikely to work.

The European Commission promised to publish comprehensive guidance on the regulation in September 2024, but has yet to do so, or to explain why it has not. This may indicate that it is having problems resolving outstanding issues.

With less than five months to go, we believe that, at the very least, the Commission should conduct a review prior to enforcement. The terms of the regulation mean that only certain aspects of it may be changed prior to its introduction without it being referred back to the European Parliament wholesale. However, the new Commission appointed following the recent European elections has already recalled three other laws due to be enforced so that they can be reviewed and made fit for purpose, so a precedent exists.

Representatives from IADAA, the ADA and other art market bodies are due to meet with the Commission in February as part of the official consulting group on the regulation. Meanwhile, IADAA and the ADA are continuing to brief other associations through seminars on what the issues surrounding the regulation are and how art market professionals will be expected to comply.

We are still actively engaged in the political process surrounding this issue and have drawn up a series of proposals for resolving the remaining problems.

For those wanting a more detailed briefing on the regulation, IADAA adviser Ivan Macquisten has produced a [YouTube guide](#).

How Italy's Carabinieri cultural heritage protection squad foiled tomb-raiders

The Guardian: January 3: This is essentially a profile of the cultural protection squad of Naples' Carabinieri, with a particular focus on its commander, Massimo Esposito. It is highly reminiscent of the hagiographic reports written about the Manhattan District Attorney's Antiquities Trafficking Unit and its head, Assistant ADA Matthew Bogdanos.

The article tells the tale of a local gang of tombaroli – tomb raiders – whom the police believe is run by an entrepreneur in Naples, and how the Carabinieri caught them out, recovering 10,000 fragments of Roman and medieval pottery, as well as 453 intact artefacts.

“The tomb-raiders still ply a decent trade, but with the police consistently on their tail, their loot is not as fruitful as it used to be,” the article informs us. “Data in recent years indicates a gradual decrease in crimes against cultural heritage. Laws for crimes against cultural heritage have been tightened, and work intensified to return stolen assets from abroad. The unit has a database listing more than 1.3m stolen assets, which can be consulted by police forces overseas.”

It's reassuring to learn that existing legal restrictions are proving so effective and that crime is falling. That begs the question as to why more laws are needed.

Greece's First Underwater Antiquities Museum to Redefine Piraeus as a Cultural Hub By 2026

Travel and Tour World: January 4: Work on building a National Museum of Underwater Antiquities at the Athens port of Piraeus is on track for completion, with its doors opening in 2026.

It will contain more than 2,500 exhibits, “incorporating cutting-edge technology, advanced maintenance laboratories, and state-of-the-art storage facilities”.

The €93 million project covers 26,380 square metres, of which 7,550 will be exhibition space.

Getty Museum in LA 'confident' art collections will be protected amid wildfires

Yahoo.co.uk: January 13: The Getty Museum in Los Angeles appeared to be in peril from the encroaching wildfires that have devastated parts of the city and surroundings. However, the institution says that preventive measures it took to protect the collection from fire are paying off, and it is safe from damage or destruction.

Protective systems at the museum include “very sophisticated air circulation systems” to prevent smoke damage, while its outer walls are made from travertine, a natural stone of particular strength that can act as an effective insulator. Inside, the building is made of reinforced concrete, and the whole location is constructed to be resistant to earthquakes as well as fire.

Why we must learn the lessons of the UK Post Office scandal when it comes to Cultural Property

Impending enforcement of a new EU law that is not fit for purpose risks creating serious human rights breaches

Antiquities Forum (full text): January 16:

The UK Post Office scandal has been a landmark of injustice that has outraged the public and politicians alike. Sub-postmasters were convicted of theft and even jailed – and one even committed suicide – when the real problem was the faulty Horizon computer system. For years the Post Office pursued the innocent while burying evidence of the true cause.

As victims have fought back, one of the aspects that has arisen time and again was the fact that the Post Office and its lawyers demanded that sub postmasters prove their innocence by demonstrating that the Horizon system had a problem. As *The Law Society Gazette* summed it up in the case of Lee Castleton from 2006, “the Post Office’s strategy was to put the burden on Castleton to prove that the Horizon IT system was not working properly – effectively reversing the burden of proof”.

Richard Moorhead, Professor of Law and Professional Ethics at the University of Exeter and Honorary Professor of Law at UCL, is a consulting expert on the scandal and has written extensively about it.

He concluded: “Our analysis of Lee Castleton’s case shows how misaligned the desire to win and justice can become. The problems are particularly acute when one side is unrepresented. There is a question here whether the lawyers were overly influenced by a legitimate, if opportunistic, strategy. The courts need to think long and hard about allowing artful legal argument to shift evidential burdens onto those least able to prove their case.”

As *Doughty Street Chambers* reported: “In *Hamilton & Others*, Tim Moloney KC and Kate O’Raghallaigh were appointed lead advocates by the Court of Appeal and represented 29 of the 39 appellants for whom the Court found that the investigative and disclosure failings of Post Office Limited were “so egregious as to make the prosecution of any of the ‘Horizon cases’ an affront to the conscience of the court” and that, in their conduct of the prosecutions, the Post Office “reversed the burden of proof”.”

Reversal of the burden of proof an aggravating factor

Clearly, the Post Office’s tendency to reverse the burden of proof to cover its tracks and shift the blame to sub-postmasters was a very serious aggravating factor in the scandal.

When ITV screened *Mr Bates vs the Post Office*, a drama series based on the scandal, it became the most celebrated show of the year and transformed the debate at the highest level, most specifically because of the reversal of the burden of proof aspect that led to such injustice. After more than a decade of the sub-postmasters fighting to clear their names and get recompense, it was this that finally galvanised the authorities and led to a public inquiry.

So, when is it reasonable to reverse the burden of proof under the law?

Being found in possession of a deadly weapon such as a knife now comes with a presumption of intent to use it under English law – an understandable development. In 2021, the *Council of Europe’s* Warsaw anti-money laundering and counter-terrorism financing convention committee called on its States Parties to effectively apply the reversal of the burden of proof regarding the lawful origin of alleged proceeds or other property liable to confiscation in serious offences.

Right: *ITV's Mr Bates vs the Post Office, the drama series that transformed the debate on the Post Office scandal. The scandal's reversal of the burden of proof aspect outraged the public and politicians.*



The [2021 report of the Conference of the Parties](#) looked at the [2005 Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism](#). It evaluated the extent to which 34 States Parties have legislative or other measures in place for the burden of proof to be reversed, a possibility provided for in Article 3 (4) of the Convention. That stipulates that “Each Party shall adopt such legislative or other measures as may be necessary to require that, in respect of a serious offence as defined by national law, an offender demonstrates the origin of alleged proceeds or other property liable to confiscation to the extent that such a requirement is consistent with the principles of its domestic law”.

The key words here are “in respect of a serious offence as defined by national law” – in other words, where a serious offence has been identified as having taken place.

Mission creep: from serious offence to casual risk prevention

The problem the art market faces in dealing with regulation and the authorities now is mission creep. Application of the reversal of the burden of proof has moved far beyond the test of whether a serious offence has occurred and into the realm of what is effectively casual risk prevention.

It is now becoming the norm to apply the reversal of the burden of proof for provenance within the international art market and for those importing their possessions, even where no evidence at all exists of a risk of money laundering or terrorism financing.

As with the sub-postmasters, it is not possible to provide evidence that either does not exist, or that you cannot gain access to, to prove your innocence – in which case you are assumed to be guilty. Just as the courts were scandalised by this attitude and approach in the Post Office scandal, so should they be in the treatment of the art market and private citizens with regards to their property.

The imposition of the ‘reversal’ standard across the board on a huge range of imports under [EU Reg 2019/880](#) relating to cultural goods is utterly disproportionate, proportionality being the international legal test for whether such measures are reasonable, as well as a prerequisite of the [European Commission President's official policy on lawmaking](#).

A key pledge on page 7 of the EC President Ursula von der Leyen's new [political guidelines](#) reinforces this concept: “Future legislation must also be simplified and designed with small businesses in mind and in a spirit of subsidiarity.”

To drive the message home even more clearly, von der Leyen championed the interests of small business in her address to the World Economic Forum at Davos this month, calling for a cutback in “red tape” to make business “much easier all across Europe”, notably for SMEs. This idea forms the second plank of a three-part strategy to make the EU more competitive, as set out in the newly published document, *A Competitiveness Compass for the EU*. The first of what this report sets out as a list of five ‘horizontal enablers’ is: “simplifying the regulatory environment, reducing burden and favouring speed and flexibility”.

Wise words that fly in the face of what is actually happening. Let us hope that the EC President turns her attention to the prospects for the EU market in this light now.

Violation of the presumption of innocence

In this light, let’s not forget, too, that the European Commission’s own research, in the form of two studies commissioned to show, among other things, the level of terrorism financing across all its member states, found no evidence at all. So no evidence, and yet the enforcement of the ‘reversal’ policy as though evidence had been found.

As the UK Appeal Court noted in the Supreme Court of Canada, Dickson CJC said that “[i]f an accused is required to prove some fact on the balance of probabilities to avoid conviction, the provision violates the presumption of innocence because it permits a conviction in spite of a reasonable doubt in the mind of the trier of fact as to the guilt of the accused.”^[60]

That level of proof will soon be applied to importers of cultural property to the EU. Without any evidence showing that terrorism financing, which initially prompted this law, is a problem, the application of such a standard when no offence – serious or otherwise – has been identified appears disproportionate. As such, it is in breach of Article 1, Protocol 1 of the European Convention of Human Rights, which stipulates that individuals should be able to enjoy possession of their private property without arbitrary interference.

If evidence of terrorism financing had been clear, then raising the breach of 2019/880 rules to the level of serious crime might be justified on the understanding that serious crime is largely defined by the severity of harm caused by the offence. Without that evidence, however, reversing the burden of proof risks becoming a violation of human rights, just as it was in the cases related to the Post Office scandal.

‘Once-in-a-century discovery’ reveals spectacular luxury of Pompeii

BBC News: January 17: After centuries of study, the 2,000-year-old site of the devastating eruption of Mount Vesuvius surely had little more to teach us?

Apparently not, as a “once-in-a-century” find has been unearthed in the ancient Roman city of Pompeii in Italy.

The astonishing find is a surprisingly intact sumptuous private bathhouse – potentially the largest ever found there – complete with hot, warm and cold rooms, exquisite artwork, and a huge plunge pool.

“The spa-like complex sits at the heart of a grand residence uncovered over the last two years during a major excavation.”

The discovery is another poignant reminder of the terror the inhabitants faced.

Skeletons found in the bathhouse belonged to a woman, aged between 35 and 50, who was clutching jewellery and coins, and a younger man in his teens or early 20s.

“They had barricaded themselves into a small room but were killed as a tsunami of superheated volcanic gas and ash – known as a pyroclastic flow – ripped through the town,” the BBC explains.

The archaeologists working on the discovery have been followed by a documentary team from the BBC and Lion TV, for a series called *Pompeii: The New Dig*.

The Battle to Protect Archaeological Sites in the West Bank

Sapiens.org: Distinguishing facts from propaganda can be difficult when conflicts rage, and the Israeli/Palestinian situation is no different. This article, however, seems to provide some credible statistics on what is happening on the ground in the West Bank.

Archaeologist Salah Al-Houdalieh, a Palestinian academic, has been surveying the area to assess the impact of subsistence looters since the recent conflict began on October 8, 2023. Limited oversight of protected sights has led to an enhanced risk of looting, he says.

Over the past year, he and his students have been working with the Palestinian Tourism and Antiquities Police Department to survey approximately one-fourth of the West Bank's archaeological sites.

"Overall, our survey reveals widespread evidence of looting at 309 out of 440 sites we visited in the West Bank. In total, we documented 2,976 new looting pits," he writes before giving a detailed account of what has been happening at one site.

Where the article starts to go wrong is in the inaccurate claims over what he refers to as a "soaring demand" for antiquities on the market – reports such as that published by the RAND organisation 2020 shows that demand is soft globally.

"Since 1967, approximately 8.4 million archaeological objects were looted and trafficked through international markets and collectors via Israel as an export hub, irreversibly disconnecting them from their original cultural contexts. But with the recent increase in unemployment, looting has intensified," he claims, but gives no source for his figure.

As anyone who has studied this field will know, if you don't know what has been looted from the ground, you can't possibly put a figure on it.

Major hoard of Roman-British coins found near Utrecht (the Netherlands)

Popular Archaeology: January 27: A hoard of 404 silver and gold coins unearthed near Utrecht in the Netherlands in late 2023 has revealed a unique combination of Roman and British coins, buried in the northern border region of the Roman Empire (the Lower German Limes). It is the first hoard of its type ever to be found in mainland Europe.

The most recent of the Roman coins found were struck in the years 46-47, during the reign of the Emperor Claudius, when the Romans crossed the North Sea to conquer Britannia. Rarities include a coin featuring Juba, the king of Numidia in northwest Africa (present-day Algeria).



The hoard also includes 44 gold coins struck for the British king Cunobelin and were probably the spoils of battle. The hoard has been acquired by the Rijksmuseum van Oudheden (the Dutch National Museum of Antiquities) and now form part of its permanent exhibition *The Netherlands in Roman Times*.

Images courtesy of the National Collection of the Museum of Antiquities

Rare ancient Egyptian jewelry now costs less than a Cartier bracelet: 'Wearable art'

New York Post: January 27: Another report that shows that antiquities are keenly priced and, as such, not the great boon for looters claimed. This article focuses on the ancient jewellery on offer at Christie's. While the most expensive item, a gold strap necklace from Ancient Greece, is valued at \$20,000-30,000, much of the lesser material can be acquired more cheaply than contemporary designer jewellery. As an example, the article compares a Cartier Love bracelet (\$8,000) with a set of gold bracelets from ancient Rome (\$4,000 to \$6,000).

Theft in Netherlands of ancient golden helmet leaves Romania distraught

ABC News: January 27: Terrible news that a brazen robbery at the Drents Museum in the Netherlands has led to the loss of irreplaceable Dacian gold artefacts of Romanian heritage. Arguably the most exceptional piece was a 2,500-year-old golden Cotofenesti helmet, ***pictured here courtesy of the Dutch police***, one of Romania's most revered national treasures. Three gold wristbands were also taken.

As the media reported: "Romanian President Klaus Iohannis said the artifacts have "exceptional cultural and historical importance" for Romanian heritage and identity, and that their disappearance had "a strong emotional and symbolic impact on society."

The great fear was that the pieces will be melted down for their gold content. Later news that the thieves had been caught raised hopes that the items may, after all, be recovered.



The Grand Egyptian Museum Will Be Officially Inaugurated On July 3

Egypt Today: January 28: Dr. Ahmed Ghoneim, CEO of the Grand Egyptian Museum Authority, has announced that museum will be opened officially on July 3. He revealed: "We are currently preparing multiple scenarios, and the festivities might last several days—perhaps three days, a week, or even several months. These ideas are being discussed at a high level by a committee formed by the Minister of Tourism and Antiquities and at an even higher level under the leadership of the Prime Minister."

Low Public Support for Renewal of MOU with Italy, New MOU with Vietnam and Other Renewals for Chile and Morocco

Cultural Property Observer: January 28: Cultural Property lawyer, collector and campaigner Peter Tompa has been keeping a watching brief on bilateral agreements and their consequences for a long time. He has consistently warned against their undemocratic impact on the world of cultural property, especially as it relates to the individual in the form of collectors or dealers.

Here he analyses public reaction to the renewal of important memoranda of Understanding with Italy, Chile and Morocco, as well as the establishment of a new MoU with Vietnam.

"Most of the comments (about 80%) came from coin collectors or dealers concerned about new or renewed import restrictions, particularly possible new restrictions on

Roman Imperial coins on behalf of Italy,” he writes on his blog, *Cultural Property Observer*.

“There were very few comments calling for import restrictions on coins. All came from either archaeological advocacy groups or archaeologists associated with these groups.”

He notes that the renewal of the Italian MOU received the most support from archaeologists, “but even here the numbers were limited”.

“This demonstrates once again that the MOU program which is pitched as a ‘soft power’ effort, really has very small constituency. It also should be noted that one of these commenters, ASOR, is a major State Department contractor which has received considerable funding to write reports to help justify cultural property MOUs.”

Tompa muses on whether MoUs will continue to enjoy the sort of State Department support that has seen them multiply so frequently over recent years – “Are Trump DOGE budget cutters watching?”, he asks.