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## Case 15 Archaeological Objects – Italy and Princeton University Art Museum

*Italy/Italie – Princeton University Art Museum – Archaeological object/objet archéologique – Post 1970 restitution claims/demandes de restitution post 1970 – Illicit excavation/fouille illicite – Illicit exportation/exportation illicite – Ownership/propriété – Procedural issue/limites procédurales – Due diligence – Diplomatic channel/voie diplomatique – Negotiation/négociation – Settlement agreement/accord transactionnel – Conditional restitution/restitution sous condition – Cultural cooperation/coopération culturelle – Loan/prêt*

*The Italian Government and the Princeton University Art Museum signed an agreement on 30 October 2007 that resolved the question of ownership of 15 archaeological objects in the Museum's collection. This accord was the culmination of negotiations that were initiated by the Italian Ministry of Cultural Heritage and Activities following the discovery of substantial evidence demonstrating the illicit provenance of the requested antiquities.*

*I. Chronology; II. Dispute Resolution Process; III. Legal Issues; IV. Adopted Solution; V. Comment; VI. Sources.*

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## I. Chronology

### Post 1970 restitution claims

- **31 August 1995:** During a routine investigation over illicit trafficking, the *Carabinieri* (Cultural Heritage Protection Office) discovered an **organizational chart** showing how the clandestine antiquities network was arranged through Italy and elsewhere, i.e. who was in the hierarchy and how they were related to each other, who supplied whom, which areas of Italy were supplied by which middlemen, and what their links were to international dealers, museums and collectors. The chart identified an Italian art dealer, **Giacomo Medici**, as being a senior figure responsible for bringing antiquities out of Italy.<sup>1</sup>
- **13 September 1995:** The Italian and Swiss police raided the warehousing facility of **Giacomo Medici** at the **Geneva Free Port**. The warehouse contained vases, statues, photographs and documents, including shipment invoices. This evidence confirmed that Medici had exported out of Italy several antiquities and that he was in close relationship with *tombaroli* (i.e. tomb raiders) in Italy, dealers, prominent museums and collectors in Europe and the United States.<sup>2</sup>
- **2004:** The Ministry of Cultural Heritage and Activities of the Republic of **Italy** inquired the **Princeton University Art Museum** about the provenance of a number of antiquities in the museum's collection. Based on the evidence gathered, Italy contended that these artworks had been illicitly exported.
- **2005:** In response to Italy's requests, the Princeton Museum provided details about several works in its collection. Negotiations over the disposition of **15 artworks** began.<sup>3</sup>
- **30 October 2007:** The Italian Ministry and the Princeton Museum signed an **agreement** resolving ownership of 15 disputed artefacts. Under the agreement, the Museum was entitled to retain 7 objects, whereas the ownership title to 8 objects was transferred to Italy.<sup>4</sup>

## II. Dispute Resolution Process

### Negotiation – Diplomatic channel – Settlement agreement

- Italian authorities and the Princeton Museum reached an agreement over the disposition of 15 antiquities in the museum's collection after few months of negotiation.
- The then Italian Minister affirmed that the agreement represented a successful example of cultural diplomacy confirming that the Italian Government lead the fight against the illicit trafficking in antiquities. However, the Italian Government could have filed a claim in the United States against the Princeton Museum relying on the evidence demonstrating that the

<sup>1</sup> Peter Watson and Cecilia Todeschini, *The Medici Conspiracy: The Illicit Journey of Looted Antiquities, from Italy's Tomb Raiders to the World's Greatest Museums* (New York: Public Affairs, 2006), 10–18.

<sup>2</sup> *Ibid.*, 19–23.

<sup>3</sup> Cass Cliatt, "Princeton University Art Museum and Italy Sign Agreement over Antiquities," Princeton University News Releases, October 30, 2007, accessed on June 5, 2012, <http://www.princeton.edu/main/news/archive/S19/37/62Q26/index.xml>.

<sup>4</sup> *Ibid.*

requested antiquities had been excavated and smuggled out of Italy in violation of existing laws. Basing its right to ownership on the national vesting laws, a foreign nation can recover its stolen antiquities in United States courts by bringing a replevin claim.<sup>5</sup> Many such claims have been brought.<sup>6</sup> In addition, the recent successes of Italy and Greece in recovering artefacts from the Metropolitan Museum of Art, the Boston Museum of Fine Arts and the J. Paul Getty Museum were also based on the possibility to bring actions for replevin.<sup>7</sup>

- On the other hand, Susan Taylor, the then Director of the Princeton Museum, said that the “agreement meets Princeton’s two primary goals. [...] First, it is consistent with our long-standing commitment to responsible stewardship of our collections. Second, it encourages the development of future opportunities for collaboration that will advance new scholarship in both Italy and the United States”.<sup>8</sup> She added that the “fulfillment of these goals is in the interests of the communities served by Princeton and all American art museums: scholars, educators, students, art lovers and the general public”.<sup>9</sup> Yet, it cannot be excluded that the Museum accepted to negotiate because of the substantial evidence found in 1995 by the Carabinieri and emerging in the criminal trial against Robert Hecht and Marion True proving the illicit provenance of the requested antiquities. It can thus be argued that they wanted to avoid the adverse publicity and reputational harm that could have derived from a trial.

### III. Legal Issues

#### Due diligence – Illicit excavation – Illicit exportation – Ownership – Procedural issue

- The instant case involved various legal questions, none of which was judicially tested. Among them it is noteworthy to focus on the question of whether the requested artefacts had been illicitly excavated and smuggled out of Italy.
- Generally speaking, States that seek the recovery of antiquities through judicial means bear the burden of proving that, at the time they were discovered and removed from their land, a national law was in place vesting ownership of such antiquities in the State. This proof is often difficult to obtain because: (i) the presence of buried archaeological objects is unknown until their removal; (ii) such objects are often broken into pieces in order to facilitate transport and multiply profits; (iii) antiquities clandestinely excavated may change hands several times through the black market before being bought by an institutional or private collector; and (iv) these archaeological objects are sold without educational and scientific information about their origin or provenance. However, in this case the Italian Government’s action was not constrained by these uncertainties thanks to the evidence emerging from ongoing investigation.

<sup>5</sup> Patty Gerstenblith, “Controlling the International Market in Antiquities: Reducing the Harm, Preserving the Past,” *Chicago Journal of International Law* 169 (2007-2008): 177.

<sup>6</sup> See, e.g., Alessandro Chechi, Anne Laure Bandle, Marc-André Renold, “Case Lydian Hoard – Turkey and Metropolitan Museum of Art,” Platform ArThemis (<http://unige.ch/art-adr>), Art-Law Centre, University of Geneva.

<sup>7</sup> Gerstenblith, “Controlling the International Market in Antiquities,” 177.

<sup>8</sup> Cass Cliatt, “Princeton University Art Museum and Italy Sign Agreement over Antiquities.”

<sup>9</sup> Ibid.

#### IV. Adopted Solution

##### Conditional restitution – Cultural cooperation – Loan

- The Italy-Princeton Museum agreement of 2007 on the 15 disputed artefacts has remained confidential. Nonetheless, the parties have disclosed some of its key points.
- Under the agreement, the title to 8 objects was transferred to Italy, while the Museum was entitled to retain 7 objects.<sup>10</sup> Of the 8 objects whose ownership was transferred to Italy, 4 artefacts were loaned to the Museum for four years. In addition, the Italian Ministry agreed to lend to the Princeton Museum a number of additional works of art of great significance and cultural importance. Also as part of the agreement, students from Princeton were granted access to excavation sites managed by the Italian Ministry for the purposes of archaeological study and research.

#### V. Comment

- The agreement concluded by the Italian Government with the Princeton Museum – which should be considered as a contract rather than an international treaty<sup>11</sup> – constitutes an efficient out-of-court settlement that permitted: (i) the return to Italy of various precious antiquities; (ii) to avoid litigation and the legal expenses and the negative publicity associated to it; and (iii) to establish a continuing program of cultural cooperation involving reciprocal loans of artworks, the sharing of information about potential future acquisitions, and collaboration in the areas of scholarship, conservation and archaeological investigation. These advantages explain why the parties preferred a mutually beneficial solution to litigation or wholesale restitution. The importance of these benefits was also underlined by Susan Taylor, which praised the agreement by saying that it enabled the Museum “to retain a number of objects, repatriate others that belong to Italy, and have unprecedented access, on a long-term loan basis, to additional material [...] [that has] never been outside Italy”.<sup>12</sup> However, given that the accord has remained confidential, it is not clear what brought the Museum to change its previous stated position that “a search of the museum records finds no indication that there was anything improper in the acquisition”.<sup>13</sup> These details should be disclosed in order to provide some standards to the museum community.

<sup>10</sup> See the objects at: [http://www.princeton.edu/pr/pictures/a-f/art\\_museum\\_antiquities/](http://www.princeton.edu/pr/pictures/a-f/art_museum_antiquities/).

<sup>11</sup> Tullio Scovazzi, “*Diviser c’est détruire*: Ethical Principles and Legal Rules in the Field of Return of Cultural Properties,” *Rivista di diritto internazionale* (2010): 380.

<sup>12</sup> Cass Cliatt, “Princeton University Art Museum and Italy Sign Agreement over Antiquities.”

<sup>13</sup> David McKenna, “Museum Returns Artifacts to Italy after Legal Conflict,” *The Daily Princetonian*, February 16, 2012, accessed 5 June 2012, <http://www.dailyprincetonian.com/2012/02/16/29976/>.

- Interestingly, the Italian Government and the Princeton Museum concluded another agreement in 2011. The new agreement is the culmination of discussions that were initiated by the Museum, following extensive internal research related to several items in its collection. Under this new agreement, 6 further artworks were returned to Italy. It also recognized that these artefacts were acquired by the Princeton Museum in good faith.<sup>14</sup>

## VI. Sources

### a. Doctrine

- Gerstenblith, Patty. “Controlling the International Market in Antiquities: Reducing the Harm, Preserving the Past.” *Chicago Journal of International Law* 169 (2007-2008): 169–195.
- Scovazzi, Tullio. “*Diviser c’est détruire*: Ethical Principles and Legal Rules in the Field of Return of Cultural Properties.” *Rivista di diritto internazionale* (2010): 341-395.
- Watson, Peter, and Cecilia Todeschini. *The Medici Conspiracy: The Illicit Journey of Looted Antiquities, from Italy’s Tomb Raiders to the World’s Greatest Museums*. New York: Public Affairs, 2006.

### b. Documents

- Alessandro Chechi, Anne Laure Bandle, Marc-André Renold, “Case Lydian Hoard – Turkey and Metropolitan Museum of Art,” Platform ArThemis (<http://unige.ch/art-adr>), Art-Law Centre, University of Geneva.

### c. Media

- McKenna, David. “Museum Returns Artifacts to Italy after Legal Conflict.” *The Daily Princetonian*, February 16, 2012. Accessed June 5, 2012, <http://www.dailyprincetonian.com/2012/02/16/29976/>.
- Princeton University News Releases. “Princeton University Art Museum, Italy Reach New Antiquities Agreement.” January 25, 2012. Accessed June 5, 2012, <http://www.princeton.edu/main/news/archive/S32/75/13K74/index.xml>.
- Cliatt, Cass. “Princeton University Art Museum and Italy Sign Agreement over Antiquities.” October 30, 2007. Accessed August 17, 2011, <http://www.princeton.edu/main/news/archive/S19/37/62Q26/index.xml>.

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<sup>14</sup> Princeton University News Releases, “Princeton University Art Museum, Italy Reach New Antiquities Agreement,” January 25, 2012, accessed June 5, 2012, <http://www.princeton.edu/main/news/archive/S32/75/13K74/index.xml>.