

# Art and cultural assets news - autumn: illicit trade in cultural property

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**CATEGORY:**

ARTICLE

**CLIENT TYPES:**

ART AND CULTURAL INSTITUTIONS

A new bilateral treaty between Switzerland and Italy provides that the two countries will cooperate to combat illicit trade in cultural property.

The Treaty came into force last April. It is the first of a series of bilateral treaties adopted under cover of the Swiss Act on the International Transfer of Cultural Property of 2003. The Act is one of the pillars of the Swiss implementation of the UNESCO Convention of 1970.

The bilateral treaty with Italy concerns (i) the import and export of cultural property between Switzerland and Italy and (ii) the return of cultural property unlawfully exported from one country to the other.

The Treaty covers certain types of cultural property by reference to their age, type and material. Antiquities are covered (e.g. Etruscan, Roman, Byzantine), up to 800 AD and in some cases up to 1500 AD. For example, frescos dating from the Middle Ages and the Italian Renaissance are covered by the Treaty, alongside architectural stone items of the same period that have been removed from churches, monuments or sites. Old Master paintings are not covered.

In order to import cultural property covered by the Treaty from Italy into Switzerland, the importer must provide evidence to Swiss Customs that the property was lawfully exported from Italy. Swiss Customs are expected to want to see the Italian export licence.

The Swiss Courts now have jurisdiction to consider a claim by Italy for the return of cultural property covered by the Treaty that was unlawfully exported after 27 April 2008.

If the possessor of the property unlawfully exported from Italy is compelled to return it, he is entitled to compensation if he can show that he acquired it in good faith.

Two further bilateral treaties have been signed, one with Greece and the other with Peru. They have not yet come into force. Further treaties are being considered, in particular with Egypt, Turkey, Cyprus and Mexico.