

Justitiële verkenningen

vol. 23, no. 1, jan./feb.1997

Art and criminality

Summaries

Justitiële verkenningen (Judicial explorations) is published nine times a year by the Research and Documentation Centre of the Dutch Ministry of Justice in cooperation with the publishing house Gouda Quint BV. Each issue focuses on a central theme related to criminal law, criminal policy and criminology. This section contains abstracts of the most relevant international articles. The central theme of this issue is: Art and criminality.

The Unidroit convention on the international return of stolen or illegally exported cultural goods

S.M. Gimbröre

In this article the author gives a short review of the international legal protection of cultural goods. She argues that in any instrument concerning the illegal trade in cultural goods, economic and cultural principles - free circulation versus protection- have to be reconciled. The main focus is put on the Unidroit convention on the internationale return of stolen or illegally exported cultural goods that was concluded in June 1995. This convention enables states parties to claim the return of stolen or illegally exported cultural goods falling into its scope. The Netherlands has signed the Unidroit convention. This decision has been criticized by auction houses and art dealers. They fear the convention will result in legal insecurity. While acknowledging the complexity of the issues related to illicit trade in cultural goods, involving social, economic and cultural aspects, the author is of the opinion that the Unidroit convention contributes to solving the problem.

Art abroad

Ch. van Rappard en J.E.P Leistra

This article aims to give an overview of the various international laws and regulations concerning the return of cultural goods that have left their country of origin. It is not a legal examination, but an overview based upon the daily experience with the practical aspects of two art historians working in this field. The different laws and regulation are illustrated by case studies. The Dutch Cultural Heritage Preservation Act is included, a well as the EC-Regulation, various Unesco Conventions, Unidroit and some of the problems connected with the recovery of objects missing since World War II.

Economists, money laundering and the art market

A.W.A. Boot and A.M. ten Wolde

This study addresses the feasibility (and importance) of money laundering within the art trade business. We examine whether art trade offers better opportunities than say trading in the stock market. We argue that anonymity and less transparent price formation may favour art trade as vehicle for money laundering. However, the sheer size of stock trade (and trade on other financial claims) limits the overall importance of art trade. Finally, from a cost/benefit point of view, we question the overall importance of sequences of transactions (in financial markets, art business or otherwise) for money laundering purposes.

The serenity of the irreparable; a small psychology of art vandalism

G. Breeuwsma

The statement that 'for a person who cares for beauty, it is hard to imagine that anyone would wilfully alter - let alone mutilate - a work of art' seems to be the starting point of the psychological involvement with art vandalism and iconoclasts. Most of the time this leads to the unsatisfying conclusion that an

iconoclast must be mad, otherwise he would not have attacked a work of art. In this article the statement is turned upside down and in fact starts with the question how comes that most people don't lose control in their confrontation with art. A psychology of art vandalism must explain why people choose to attack or destroy art, therefore we have to go into the motives and justifications of iconoclasts. It is stated, that in a sense, iconoclast may be considered as perfect art viewers, for they seem to be very sensible to the intentions of the art work and feel an urge to respond to that. At the same time they overestimate their role. The iconoclasts described in this article have the tendency to see their vandalous act as an art performance in itself: it is in the act of destruction, as opposed to the act of creation by the artist, that they seem to find something which might be called the serenity of the irreparable.

Art vandalism

T.A. Schiphof

The article is concerned with the legal aspects of art vandalism, as well as the legal instruments that could be relevant as to controlling this phenomenon. Under Dutch penal law art vandalism is punishable as 'damaging of goods'. Moreover, it will often imply an infringement of copyright, which is also a criminal offence. Public prosecution of art vandalism has not a special priority, and acts of prosecution of infringements of copyright are rare in these cases. Adequate maintenance of works of art might well reduce the occurrence of art vandalism. It is advised that artists and owners make up provisions as to the obligations concerning the upkeep of works of art. Copyright notions might be a source of inspiration here. The *droit au respect*, one of the moral rights an artist derives from the Dutch Copyright Act, implies that the owner of a work of art must handle it in such a way that the reputation of the maker will not be impaired.