Protection of national heritage in the light of the applicable law and the actions provided in this area by police in Poland

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Protection of national heritage in the light of the applicable law and the actions provided in this area by police in Poland
The issue of national heritage is an inseparable element of the existence of every nation. The article presents the legal regulations aimed at the protection of cultural heritage in Poland, as well as statistical data relating to crime in this area. The solutions adopted by the Polish police in the field of the identifying and combating of crime against cultural property and national heritage are also described. Furthermore, the article highlights the most serious crime against the national heritage that has occurred in Poland in recent years. The subject article was prepared on the basis of the analysis of literature, existing legislation and two interviews with Polish police officers.

Keywords: national heritage, Poland, law, statistical terms

Introduction

The issue of national heritage is an inseparable element of the existence of every nation. In Poland, cultural heritage is perceived primarily as a material synonym for the products of the past by previous generations, as well as the achievements of contemporary Poles.[1] Therefore, cultural heritage consists of:

- monuments, material evidence of the past and products of nature (immovable monuments, movable monuments, museums and exhibitions, archives, library resources and the cultural landscape)—material heritage, and

[1] KOBYLIŃSKI, Zbigniew, Czym jest, komu jest potrzebne i do kogo należy dziedzictwo kulturowe [What is it, who needs it and to whom the cultural heritage belongs]. In: *Mazowsze Regional Studies*, 7, 2011, pp. 21–47.

● customs, oral communication, knowledge and skills as well as related objects and cultural space, which are recognised as part of their own heritage by a given community, group or individuals—intangible heritage.[2]

The most comprehensive definition of cultural heritage is contained in the Council of Europe's Framework Convention on the Importance of Cultural Heritage for Societies, holistically addressing its tangible, intangible and digital dimensions.[3] In the light of the above regulation, cultural heritage is an integral element of the cultural and creative sectors, includes resources, goods and material, non-material and natural knowledge passed down from generations, and can help in shaping the image of municipalities, cities and regions and make a significant contribution to the achievement of the goals of "Europe 2020" strategy and to the strengthening of social cohesion.[4] Cultural heritage is a shared value and a shared resource that, if properly valued, can help build a vision for the future. Preserving heritage, emphasising its values and guaranteeing its continuity is a common mission, responsibility and goal.[5]

The article presents the legal regulations aimed at the protection of cultural heritage in Poland. The content of chapter XI (devoted to criminal provisions) of the Act of 23 July 2003 on the protection and care of monuments as well as criminal regulations concerning crime against monuments contained in the Act of the Penal Code of 1997 were analysed. Furthermore, statistical data relating to the crime in this area are also presented. Additionally, the reader is introduced to the organisational solutions that have been implemented in the activities of the Polish police as far as identifying and combating crimes against cultural heritage are concerned. The issue is also complemented by the discussion of the most serious crime in recent years against the national heritage in Poland, i.e. the theft of the Arbeit Macht Frei inscription from the former extermination camp in Oświęcim. The article was prepared on the basis of the analysis of literature, existing legislation and two interviews with Polish police

[2] UNESCO Convention on the Protection of the Intangible Cultural Heritage, drawn up in Paris on 17 October 2003 (Journal of Laws of 2011, No. 172, item 1018), http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20111721018 (accessed 4 May 2020); Convention On the Protection of the World Cultural and Natural Heritage, adopted in Paris on 16 November 1972 by the General Conference of the United Nations Organization for Education, Science and Culture at its seventeenth session; Journal of Laws of 1976, No.32, item. 190, http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU19760320190 (accessed 4 May 2020). See too MOSAKOWSKI, Zachariasz; BRYKAŁA Dariusz et al.: Watermills and windmills as monuments in Poland - protection of cultural heritage in situ and in open-air museums. In: *Muzeológia a kultúrne dedičstvo*, vol. 8, 2020, Is. 3, p. 42; JAĎUĎOVÁ, Libuša: Ľudová umelecká výroba ako súčasť kultúrneho dedičstva. In: *Muzeológia a kultúrne dedičstvo*, vol. 7, 2019, Is. 1, pp. 177-191; NAVRÁTILOVÁ, Lucie: Mikulášské obchůzky na Hornolidečsku jako součást kulturního dědictví regionu . In: *Muzeológia a kultúrne dedičstvo*, vol. 7, 2019, Is. 1, pp. 193-206; DENKOVÁ, Zuzana: Ľudové umenie baníkov v zbierke Slovenského banského múzea. In: *Muzeológia a kultúrne dedičstvo*, vol. 7, 2019, Is. 2, pp. 137-151; KRIŠKOVÁ, Zdena: Kultúrne dedičstvo a jeho potenciál v kontexte udržateľného rozvoja (modrotlač ako kultúrnoidentifikačný prvok na Reprezentatívnom zozname nehmotného kultúrneho dedičstva). In: *Muzeológia a kultúrne deddičstvo*, vol. 6, 2018, Is. 2, pp. 95-106; DARULOVÁ, Jolana: Zachovávanie a prezentácia nehmotného kultúrneho dedičstva mesta (na príklade Banskej Bystrice). In: *Muzeológia a kultúrne dedičstvo*, vol. 6, 2018, Is. 2, pp. 107-119.

[3] CORNU, Marie, VAIVADE, Anita, MARTINET, Lily, HANCE, Clea (eds). *Intangible Cultural Heritage Under National and International Law: Going Beyond the 2003 UNESCO Convention*. Cheltenham: Edward Elgar Publishing, 2020, p. 22.

[4] Council of Europe Framework Convention on the Value of Cultural Heritage for Society Faro, 27. X.2005, https://www.nid.pl/upload/iblock/844/8445eee1eed20fe93856a52376d47eaa.pdf (accessed 10 June 2020).

[5] Opinion of the European Committee of the Regions: Towards an integrated approach to cultural heritage in Europe (2015/C 195/04), https://eur-lex.europa.eu/legal content/PL/TXT/PDF/?uri=CELEX:52014IR5515&from= ES (accessed 8 June 2020)

officers.

Protection of cultural heritage in Poland in the light of applicable legal regulations

Activities aimed at the protection of cultural heritage in Poland take both legal and organisational dimensions.

The framework for the protection of cultural heritage is determined by the norms of international law, which are also reflected in the provisions of Polish law. One of the most significant international sources regulating the protection of the common cultural heritage is the Commission's recommendation 75/65 / EEC of 20 December 1974 to the Member States on the protection of architectural and natural heritage (Official Journal UE L of 28 January 1975, pp. 22–23). It interacts with the Convention on the Protection of the World Cultural and Natural Heritage, adopted in Paris on 16 November 1972 (Journal of Laws of 1976, No. 32, item 190). Today, more than 180 countries are signatories to the Paris Convention, including Poland. A tangible proof of the effectiveness of the adopted standards is the UNESCO World Heritage List, which already contains around 950 sites in 150 countries.[6] The Paris Convention is the common denominator for the protection of the most valuable monuments to the cultural and natural heritage of the entire globe. At present, effective protection of cultural heritage is only possible with the acceptance of its diversity.

Another international normative act, which constitutes an important regulation in actions for the protection of cultural heritage in Poland also, is the resolution of the Council of Europe of 13 November 1986 on the conservation of works of art and monuments (Official Journal UE C 320 of 13 December 1986, p. 3). In the context of the scope of regulation, immovable components of the material heritage of European culture are subject to special protection.[7] The above-mentioned provisions on the protection of European cultural heritage, although they do not create a coherent legal system, set the standards that have been adopted in the legal regulations concerning Polish cultural heritage.

The Constitution of the Republic of Poland of 2 April 1997, which is the most essential legal act in Poland, places the responsibility for the protection of cultural heritage on all public authorities in the country. In the preamble we read: "we are grateful to our ancestors for their work, for the fight for independence, paid for with huge sacrifices, for the culture rooted in the Christian heritage of the Nation and universal values, referring to the best traditions of the First and Second Republic of Poland, obliged to pass on to future generations everything that is valuable from over a thousand years of achievements".[8] Pursuant to art. 5 of the constitution, "The Republic of Poland ... protects the national heritage and ensures environmental protection, guided by the principle of sustainable development", and according to art. 6 sec. 1 "The Republic of Poland shall provide conditions for the people's equal access to the products of culture which are the source of the nation's identity, continuity

[6] BIENIA, Kacper. Konwencje międzynarodowe w służbie ochrony dóbr kultury [International conventions in the service of the protection of cultural goods]. In: DOBOSZ, Piotr, ADAMUS, Michał, GUZEK, Dominika, MAZUR, Anna (eds) *Prawne wyzwania ochrony dóbr kultury we współczesnym świecie* [Legal challenges of protecting cultural goods in the modern world]. Kraków: Kasper, 2015, pp. 181–195.

[7] NAFZIGER, James A.R., KIRKWOOD PATERSON, Robert (eds). *Handbook on the Law of Cultural Heritage and International Trade*. Cheltenham: Edward Elgar Publishing, 2014, p. 211.

[8] The Constitution of the Republic of Poland of 2 April 1997, adopted by the national assembly on 2 April 1997, adopted by the nation in a constitutional referendum on 25 May 1997, signed by the President of the Republic of Poland on 16 July 1997 (Journal Of 1997, No. 78, item 483).

and development". Moreover, the content of art. 6 sec. 2 indicates that "The Republic of Poland shall provide assistance to Poles living abroad to maintain their links with the national cultural heritage".[9]

In Poland, culture and national heritage are nowadays perceived on many levels. They are referred to with regard to such aspects as: the organising of cultural activities,[10] copyright,[11] cinematography,[12] press law,[13] radio and television broadcasting,[14] library law,[15] archival law,[16] public sector information,[17] national heritage,[18] the protection of monuments,[19] artistic education,[20] the Centre for Polish-Russian Dialogue and Understanding,[21] the transforming of sole proprietorships of the state treasury operating with the use of cultural goods into state cultural institutions,[22] memorial sites[23] and the restitution of cultural goods.[24]

The database of legal provisions relating to the subject of culture and protection of national heritage includes the texts of legal acts published in the Journal of Laws, the Polish Monitor, the Official Journal of the Minister of Culture and National Heritage and the texts of uniform legal acts prepared at the Ministry of Culture and National Heritage. In general, the issues of the regulation and protection of culture and national heritage in Poland are defined in 35 acts and 161 ordinances of the Minister of Culture and National Heritage.[25] Acts referring fully or to a specific extent to the issue of the protection of culture and national heritage in Poland are included in the list of legal acts included in the bibliography.

After the political transformation that took place in Poland in the 1990s, a significant improvement in the protection of cultural heritage was brought by the Act of 21 November 1996 on museums (Journal of Laws of 2019, items 917 and 1726). This legal act, consisting of 40 articles, regulated such issues as: the collecting and cataloguing of cultural goods; the storing of the collected cultural goods in conditions ensuring their proper condition and safety, and the storing of them in a manner accessible for scientific and exhibition purposes; the organising of research and scientific expeditions and excavation works; as well as the conducting of educational activities in the field of cultural heritage protection.

Currently, the most vital legal regulation dedicated to the protection of cultural heritage

[9] Article 5 and 6 of the Constitution of the Republic of Poland of 2 April 1997.
[10] Act of 25 October 1991 r. on organising and conducting cultural activity (Journal of Laws of 2018, item 1983)
[11] Act of 4 February 1994 on copyright and derivative rights (Journal of Laws of 2019, item 1231)
[12] Act of 30 June 2005 on cinematography (Journal of Laws of 2019 item 2199); Act of 9 November 2018 on financial support for audiovisual production (Journal of Laws of 2019 item 50)
[13] Act of 26 January 1984—Press law (Journal of Laws of 2018 item 1914)
[14] Act of 29 December 1992 on radio and television broadcasting (Journal of Laws of 2019 item 361)
[15] Act of 27 June 1997on libraries (Journal of Laws of 2019 item 1479)
[16] Act of 14 July 1983 on National Archive Resources and Archives (Journal of Laws of 2019 item 553 and 730)
[17] Act of 25 February 2016 r. on re-using public sector information (Journal of Laws of 2019 item 1446)
[18] Act of 21 November 1996 on museums (Journal of Laws of 2019 item 917 and 1726)
[19] Act of 23 July 2003 on the protection and care of monuments (Journal of Laws of 2018 item 2067)
[20] Act of 7 September 1991on the Educational System (Journal of Laws of 2018 item 1457, 1560, 1669 and 2245)
[21] Act of 25 March 2011 on the Centre for Polish-Russian Dialogue and Understanding (Journal of Laws of 2019 item 640)
[22] Act of 15 January 2015 on transforming sole proprietorships of the State Treasury operating with the use of cultural goods into state cultural institutions (Journal of Laws 2015 item 337)
[23] Act of 28 March 1933 on graves and war cemeteries (Journal of Laws of 2018 item 2337)
[24] Act of 25 May 2017 on the restitution of national cultural goods (Journal of Laws of 2019 item 1591)
[25]http://bip.mkidn.gov.pl/pages/legislacja/prawo-w-dziale-kultura-i-ochrona-dziedzictwa-narodowego.php (accessed 10 June 2020)

in Poland is the Act of 23 July 2003 on the protection and care of monuments.[26] Law enforcement agencies in Poland most often use this legal act to combat crime against cultural goods and national heritage. Within the scope of its regulation, this act implements the assumptions of Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a member state (Official Journal WE L 74 of 27 March, 1993).[27] This legal act, consisting of 151 articles, in its content defines the subject, scope and forms of monument protection and care, and the principles for the creating of a national programme for the protection of monuments and the care of monuments, as well as for the financing of conservation, restoration and construction works on monuments and the organisation of monument protection authorities. In addition, the act defines the concept of a monument that signifies real estate or movable property, their parts or complexes, being the work of a person or related to his activity and representing a testimony to a bygone era or events whose preservation is in the public interest due to their historical, artistic or scientific value.[28] The act specifies what the protection of monuments is, and refers in particular to the actions taken by public administration bodies to: ensure legal, organisational and financial conditions enabling the permanent preservation of monuments and their development and maintenance, and the prevention of threats that may damage the value of monuments; prevent the destruction and misuse of monuments; counteract the theft, loss or illegal export of monuments abroad; control, by the state, the preservation and purpose of monuments; and take into account protective tasks in planning and spatial development as well as in the shaping of the environment.[29]

In the Act on the protection of monuments and the care of monuments, in chapter XI, devoted to criminal provisions, 18 articles also define crimes and offences[30] against cultural

[26] Act of 23 July 2003 on the protection and care of monuments (Journal of Laws of 2003, No. 162, item 1568.

[27] Directive 93/7 of the European Economic Community of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State (Journal of Laws of the European Community, L 74 of 27 March 1993).

[28] Art. 3 of the Act of 23 July 2003 on the protection and care of monuments (Journal of Laws of 2018 item 2067).

[29] SŁUGOCKI, Janusz. Problemy ochrony prawnej dziedzictwa kulturowego w Polsce: wybrane zagadnienia. Studia z zakresu nauk prawnoustrojowych [Problems of legal protection of cultural heritage in Poland: selected issues. Studies in the field of legal and systemic sciences]. In: Miscellanea, 1, 2008, pp. 39–49.

[30] Chapter 11, Act of 23 July 2003 on the protection and care of monuments: Art.108. 1. Whoever destroys or damages the monument shall be punishable by imprisonment from 6 months to 8 years. 2. If the perpetrator of the act specified in sec. 1 acts unintentionally, is subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years. Art.109. 1. Whoever, without a permit, exports a monument abroad or after taking it abroad, does not bring it to the territory of the Republic of Poland within the period of validity of the permit or, in the case referred to in Art.56a sec.8, within 60 days from the date on which the decision to refuse to issue another permit for the temporary export of the monument abroad has become final or from the date of receipt of the information about leaving the application for a subsequent permit for the temporary export of the monument abroad without consideration, shall be punishable by restriction of freedom from 3 months to 5 years. 2. If the perpetrator of the act specified in sec.1 acts unintentionally, is subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years. Art. 109 a. Whoever counterfeits or remakes a monument in order to use it in the trade of monuments shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years. Art. 109b. Whoever disposes of a movable property as a movable monument or sells a monument as another monument, knowing that they are counterfeit or altered, shall be subject to a fine, restriction of liberty or imprisonment for up to 2 years. Art. 109c. Who, without permission or contrary to the conditions of the permit, is looking for hidden or abandoned monuments, including the use of all kinds of electronic and technical devices and diving equipment, shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to 2 years.

heritage.[31] In the case of all articles collected in the act, the subject of protection is the national heritage, and in the case of article 109a and 109b additionally, the authenticity of monuments in circulation.

The offence under paragraph 108 consists in the destroying or damaging of a movable monument (e.g. a painting or pulpit) or an immovable monument (e.g. a church or archaeological site). This provision distinguishes between different sanctions for offences committed intentionally and unintentionally. Art. 109 indicates the crime of taking a monument abroad with regard only to the items listed in art. 51 of the Act on the protection and care of monuments of 2003, as amended by art. 1 section 9 of the Act of 18 March 2010 on the amending of the

[31] Art. 110. Who, being the owner or possessor of a monument, has not properly secured it against damage, destruction, loss or theft, shall be punishable by detention, restriction of liberty or a fine. Art. 111. 1. Whoever searches for hidden or abandoned monuments without permission or contrary to the conditions of the permit, including the use of all kinds of electronic and technical devices and diving equipment, shall be liable to arrest, restriction of liberty or a fine. 2. In the circumstances of committing the offence specified in sec. 1 the court can order: 1) forfeiture of tools and items that were used or were intended to commit the offence, even if they were not the property of the perpetrator; 2) forfeiture of items derived directly or indirectly from the offence; 3) the obligation to restore the previous state or pay the equivalent of the damage caused. Art. 112. 1. Whoever violates the prohibitions or restrictions in force in the cultural park or its part, shall be subject to the penalty of arrest, restriction of liberty or a fine. 2. If the perpetrator of the act specified in sec.1 acts unintentionally, is punishable by a fine. Art. 113. Who, being the owner or holder of a monument recorded on the List of Heritage Treasures or in the register or other monument included in the provincial register of monuments, failed to notify the minister responsible for culture and protection of national heritage or the provincial conservator of monuments, respectively about: 1) damage, destruction, loss or theft of the monument immediately after becoming aware of the event, 2) the threat to the monument immediately after becoming aware of the threat, 3) change of the place of storage of a movable monument, within one month from the date of this change, 4) changes in the legal status of the monument, not later than one month from the date of their occurrence or becoming aware of them—shall be punishable by a fine. Art. 113a. 1. Who, within 14 days from the date of expiry of the authorisation referred to in Art. 51 sec. 3, did not notify about bringing the monument on the territory of the Republic of Poland, is punishable by a fine. The same penalty shall be imposed on who, in the case referred to in Art. 56a sec. 8, within 14 days from the date of bringing the monument to the territory of the Republic of Poland, did not notify the provincial conservator of monuments about bringing the monument. Art. 114. Anyone who prevents or hinders access to the monument for the monument protection authority that exercises powers under the act shall be subject to a fine. Art.115. Whoever has not immediately notified the voivodeship conservator of monuments or the head of the voivodeship (mayor, president of the city) or the director of the maritime office about the discovery, during construction or earth works, of an object that is believed to be a monument, and has not stopped any works that may be damaging or destroying for the found item and has not secured, using available means, the item and the place where it was found, is punishable by a fine. Art. 116. Whoever has not immediately notified the provincial inspector of monuments or the head of the voivodeship (mayor, president of the city) or the director of the maritime office about the accidental discovery of an object which is presumed to be an archaeological monument, and has not secured this object using the available means and the place of its finding, is punishable by a fine. Art. 117. Who without a permit or contrary to the conditions of the permit leads: 1) conservation, restoration works or conservation research on the monument registered in the List of Heritage Treasures, 2) conservation and restoration works, construction works, conservation or architectural studies on the monument entered in the register or construction works in its vicinity or archaeological research—shall be punishable by a fine. Art. 118. Whoever, without permission, places on the monument entered in the register: a technical device, advertising board or advertising device within the meaning of Art. 2 points 16b and 16c of the Act of 27 March 2003 on spatial planning and development, or an inscription, shall be subject to the penalty of restriction of liberty or a fine. Art. 119. Whoever does not follow the post-inspection recommendations referred to in Art. 40 sec.1 shall be subject to a fine. Art. 119a. Who, contrary to the obligation incumbent on him, does not keep a record book or keeps it in an unreliable or untruthful manner, shall be punishable by a fine. Art. 120. All matters set forth in Article 1 § 110–119a is based on the provisions of the Code of Conduct in misdemeanour cases.

Act on the protection and care of monuments and some other acts.[32] The content of art. 51 section 1 points out that when crossing the border, if the item does not require a conservator's permission, one should have a document with an art historian's opinion on the age of the item and a photo as well as the opinion of a museum, gallery or antiquarian shop about the value of the item. By the Ordinance of the Minister of Culture and National Heritage of 8 March 2011, model documents were introduced: the assessment of the time of the monument's creation and its valuation. Both documents are necessary for the transport of the monument abroad. If a person does not have these documents, the customs service, border guard or police must keep the item in accordance with art.109 and in the proceedings they must determine whether its exportation requires a permit from the office of the conservator.[33]

The offence under art. 109a can only be committed intentionally with the will of using a counterfeit or tampered monument in the trade of monuments. If a person modifies or counterfeits a monument for a purpose other than that specified in the act (e.g. makes a modern copy of the monument for their own collections), he or she is not subject to criminal record.[34] In the circumstance of counterfeiting a monument, the subject of the activity is the object that has been given the appearance of a monument (e.g. aging processes or adding an author's signature, whose paintings are considered monuments due to their historical, artistic or scientific value).[35] The subject of protection in this article is the national heritage and certainty in the turnover of monuments; the provision protects the credibility of the object placed on the market of monuments, both in direct sale (through galleries) and sale through auctions and online galleries.[36]

However, the offence under art. 109b can only be committed intentionally, but a perpetrator must know that the monument is altered or counterfeit. The act must be committed with a direct intention and in order for the perpetrator to be charged under this article, it must be shown that he knew about the imitation or alteration of the monument, and not merely that he suspected its inauthenticity.[37]

The provisions collected in the cited act also include offences where the monument itself is a protected good, and the ruling under art. 120 of this act in the cases specified in art. 110–119

[32] Act of 18 March 2010 on amending the Act on the protection and care of monuments and some other acts (Journal of Laws of 2010 item 474).

[33] Ordinance of the Minister of Culture and National Heritage of 18 February 2011 (Journal of Laws of 2011, item 256).

[34] KOTOWSKI, Wojciech. KURZĘPA, Bolesław. *Przestępstwa pozakodeksowe. Komentarz* [Offenses outside the penal code: Comment]. Warszawa: LexisNexis, 2007, p. 612.

[35] GADECKI, Bartłomiej. Komentarz do art. 109a ustawy o ochronie zabytków i opiece nad zabytkami [Commentary on Art. 109a of the Act on the protection and care of monuments]. In: *Prokurator* [The prosecutor], 38, 2009, p. 105. [In Polish].

[36] ZALASIŃSKA, Katarzyna. Pojęcie muzealiów w prawie ochrony dziedzictwa kultury [The concept of museum objects in the law of protection of cultural heritage]. In: WŁODARSKI, Józef. ZEIDLER, Kamil (eds) *Prawo muzeów* [The law of museums]. Warsaw: Wolters Kluwer, 2008, pp. 13–14.

[37] PŁYWACZEWSKI, Wiesław. Nielegalne transakcje na rynku dzieł sztuki. Etiologia i fenomenologia zjawiska oraz możliwości przeciwdziałania [Illegal transactions in the art market: Etiology and phenomenology of the phenomenon and the possibility of counteracting it]. In: SZAFRAŃSKI, Wojciech. ZALASIŃSKA, Katarzyna (eds) *Prawna ochrona dziedzictwa kulturowego* [Legal protection of cultural heritage]. Poznań: Wydawnictwo Poznańskie, 2009, pp. 207–210.

is based on the provisions of the Code of Conduct in misdemeanour cases.[38]

Article 110 most often applies to historic buildings that have been abandoned by the owner. Many mansions and palaces, where the owner did not secure the roof, fell into complete ruin after a few years. It refers to the failure to fulfil the obligation imposed by law and the failure to act by the owner of the monument, but also by its owner (user).

Searching for hidden or abandoned monuments, including using all kinds of electronic and technical devices and diving equipment without the required permit or contrary to its conditions, is an offence under art. 111. It is an offence within the meaning of the above provision to search for hidden or abandoned historical objects without the required permit at all, and after obtaining such permission, but against its conditions.[39]

The offence contained in art. 112 consists in the violating of the integrity of the cultural park, and the provision sanctions the violation of prohibitions or restrictions in force on the territory of the cultural park. This regulation covers all types of work on the entered area, including construction, earthworks, drainage works, changes in the architecture of the site, tree felling, etc.

The provision of art. 113 applies to the proprietor of a monument as well as its owner or tenant. For the occurrence of the offence, it does not matter whether the perpetrator acted intentionally or not. This act consists in the failure to act to which the entity is obliged under the law. The obligation to notify the conservator by the owner or holder of a monument applies only to monuments entered in the register of monuments.

Article 113a concerns the failure to notify the voivodeship conservator of monuments only about the bringing into the territory of Poland of a monument for which a permit was granted. The import of any other monuments into Poland does not require registration with the conservation services and is legally allowed.[40]

Article 114 has a very broad approach to the issue of preventing or hindering access to a site or object by employees of monument protection authorities. The authorities for the protection of monuments should be understood as: the minister responsible for culture and protection of national heritage, on whose behalf the tasks and competences in this respect are performed by the General Conservator of Monuments and the voivode, on behalf of whom the tasks and powers in this regard are performed by the voivodeship conservator.

Art. 115 defines the conditions for the occurrence of an offence consisting in the failure to notify the voivodeship office of the conservator of monuments or the local commune head, city president or mayor about the discovery of a monument during earthworks or construction works. This article applies when, for example, employees do not immediately notify the conservator when, during the construction of a new building in the old town, the medieval foundations of buildings that no longer exist are found.

Art. 116 specifies the conditions for the occurrence of an offence consisting in the failure

[38] PŁYWACZEWSKI, Wiesław. Grabież oraz niszczenie dziedzictwa kulturowego i przyrodniczego – rozważania na tle zjawiska mowy nienawiści [Plunder and destruction of cultural and natural heritage: considerations against the background of the phenomenon of hate speech]. In: *Santander Art and Culture Law Review*, 3, 2017, p. 24. [In Polish].
[39] ANTONIAK, Patrycja. CHERKA, Maksymilian. ELŻANOWSKI, F., WĄSOWSKI, Krzysztof. *Ustawa o ochronie zabytków i opiece nad zabytkami. Komentarz* [Act on the protection and care of monuments: Comment]. Warsaw: Wolters Kluwer, 2010, pp. 73–74.
[40] GADECKI, Bartlomiej. *Ustawa o ochronie zabytków i opiece nad zabytkami. Art. 108–120. Przepisy karne. Komentarz* [Act on the protection and care of monuments. Articles 108–120. Penal provisions: Comment]. Warsaw: C. H. Beck, 2013, pp. 127–129.

to notify the voivodeship office of the conservator of monuments or the local commune head, president of the city or mayor of the discovery of an archaeological monument in any place in the country. This article applies if, for example, a man does not immediately notify the conservator when he finds a stone axe or fragments of pottery during work in the home garden.

Article 117 lists works which are an offence to carry out at an object entered in the register of monuments without a permit or against its guidelines. It is also an offence to conduct construction works or archaeological research without the consent of the conservator in the vicinity of a monument entered in the register.[41]

Article 118 concerns the placing of devices, advertisements, boards and inscriptions only on monuments entered in the register of monuments without the consent of the conservator. This is a condition for the offence.

The offence included in art. 119 consists in the failure to comply with post-inspection recommendations, is a consequence of conservation supervision and is aimed at the enforcement of these recommendations. In the form of a decision, the conservator orders, for example, the strengthening of the construction of city walls within 30 days; if this deadline has been exceeded and the works have not been started, this gives grounds for an offence under this article.

Based on the above legal act, as well as other criminal provisions (e.g. criminal code, misdemeanours code), public administration bodies (e.g. the Ministry of Culture and National Heritage) and law enforcement agencies (e.g. the police, prosecutor's office) prosecute perpetrators of crimes and offences against the cultural heritage.[42]

The Act of the Penal Code of 1997 also includes criminal provisions on crime against monuments. They are represented in chapter XVI—Offences against peace, humanity and war crimes, and in chapter XXXV—Offences against property.[43] An offence under art. 125

[41] ŁUCZAK, Marek. *Policja w walce o zabytki* [Police in the fight for monuments]. Szczecin: Zapol, 2011, p. 32.

[42] ZALASIŃSKA, Katarzyna. *Ustawa o ochronie zabytków i opiece nad zabytkami. Komentarz* [Act on the protection and care of monuments: Comment]. Warsaw: C. H. Beck, 2020, p. 79.

[43] The Act of 6 June 1997 Penal Code (Journal of Laws of 1997, item 553). Art. 125. § 1. Whoever destroys, damages or takes away a cultural object in an occupied area or in which military operations are taking place, violating international law, shall be subject to the penalty of deprivation of liberty for a term of between one and 10 years. § 2. If the act concerns goods of particular importance for culture, the perpetrator shall be subject to the penalty of deprivation of liberty for not less than 3 years. Art. 278. § 1. Whoever takes away someone else's movable property for the purpose of appropriation shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years. § 2. The same punishment shall be imposed on anyone who, without the consent of the authorised person, obtains someone else's computer program in order to gain financial benefits. § 3. In the case of an act of a lesser significance, the perpetrator is subject to a fine, limitation of liberty or deprivation of liberty for one year. § 4. If the theft was committed to the detriment of the closest person, the prosecution takes place at the request of the injured party. Art. 279. § 1. Whoever steals by burglary is punishable by imprisonment from one to 10 years. § 2. If the burglary was committed to the detriment of the closest person, the prosecution takes place at the request of the injured party. Art. 284. § 1. Whoever appropriates someone else's movable property or property right shall be subject to the penalty of deprivation of liberty for up to 3 years. § 2. Whoever usurps the entrusted property is subject to the penalty of imprisonment from 3 months to 5 years. § 3. In the case of an act of a lesser significance or misappropriation of property found, the perpetrator is subject to a fine, limitation of liberty or deprivation of liberty for one year.§ 4. If the misappropriation was to the detriment of the closest person, the prosecution takes place at the request of the injured party. Art. 291. § 1. Whoever obtains or helps to dispose of an item received by means of a prohibited act, or accepts or helps to hide it, shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.§ 2. In the case of an act of a lesser significance, the perpetrator is subject to a fine, limitation of liberty or deprivation of liberty for one year. Art. 292. § 1. Whoever, on the basis of the

lies within the jurisdiction of the prosecutors of the Institute of National Remembrance; the offence is not statute-barred. It occurs when cases involving monuments appearing in the register of war losses of cultural property of the Ministry of Culture and National Heritage are conducted.

There is no separate article on the theft (or theft with break-in) of monuments in the Penal Code, nor is it included in the Act on the protection and care of monuments. Cases regarding the theft of monuments are conducted as ordinary thefts. The only distinction is the inability to discontinue the proceedings due to negligible social harmfulness, because if the object is by definition a monument, it is of great importance for culture, and its preservation, due to its artistic and historical value, is in the public interest. In cases under art. 291 or 292, if the offence concerns the placing of a monument on the market when the perpetrator knows that it has been counterfeited or tampered with, article 109a of the Act on the protection and care of monuments shall apply. Art. 294 of the Penal Code concerns crimes of particular importance for culture. In this case, it enforces the stricter penalties provided for theft, misappropriation or receiving of stolen goods (up to 10 years imprisonment) if the subject matter has a special cultural significance, which must be confirmed by witnesses in their testimonies or by court experts.

In administrative proceedings carried out by the Minister of Culture and National Heritage, at the first and second instance, support is often required for the opinion of external experts who have knowledge and experience in working with monuments protection.[44] The decisions made determine what is most valuable in monuments and prevent changes unfavourable to them. On the other hand, after the completion of these proceedings, legal assistance is necessary in the field of representing the Minister of Culture and National Heritage before the Provincial Administrative Courts and the Supreme Administrative Court. This service is provided by law companies specialising in administrative court proceedings.

The legal advisor and lawyer coerce results from the provisions of the procedure before the Supreme Administrative Court, which a public administration body is obliged to apply. Activities of specialised entities in the field of representation before administrative courts affect the durability of decisions made by the Minister of Culture and National Heritage and thus the effectiveness of the system of protection of cultural heritage.[45]

Crime against cultural goods and national heritage in statistical terms

Statistical data on all crime categories in Poland is kept by the police, which is the largest uniformed institution responsible for the protection of security and public order in the country. According to data published by the police, crimes prosecuted

accompanying circumstances, should and may assume that it was obtained by means of a prohibited act, acquires or helps to sell it, or accepts or helps to hide it, shall be subject to a fine, restriction of liberty or imprisonment for up to 2 years. § 2. In the event of a significant value of the item referred to in § 1, the perpetrator shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years. Art. 294. § 1. Whoever commits the offence specified in art. 278 § 1 or 2, art. 284 § 1 or 2, art. 285 § 1, art. 286 § 1, art. 287 § 1, art. 288 § 1 or 3, or in art. 291 § 1, in relation to property of significant value, is punishable by imprisonment from one year to 10 years. § 2. The same penalty shall be imposed on the perpetrator who commits the offence specified in § 1 in relation to goods of particular importance for culture.

[44] MICHALAK, Anna, GINTER, Artur. *Ustawa o ochronie zabytków i opiece nad zabytkami. Komentarz* [Act on the protection and care of monuments: Comment]. Warsaw: Wolters Kluwer, 2016, p. 114.

[45] http://www.mkidn.gov.pl/pages/posts/ochrona-dziedzictwa-kulturowego-od-strony-prawnej-8434.php (accessed 8 June 2020)

under the Act of 23 July 2003 on the protection and care of monuments constitute only a small fraction of a percentage of the total number of all identified prohibited acts.[46] In 2018, 87 crimes[47] penalised in the above-mentioned act were recorded, while in 2017 there were 91, and in 2016, 90 such prohibited acts were found. Furthermore, in 2018 there were also 478 crimes prosecuted under the Act of 6 June 1997, Criminal Code, and related to prohibited acts violating national cultural assets or national heritage. The breakdown of individual offences under the Criminal Code is as follows:

- Art. 278 of the Criminal Code (theft)—212 crimes were found.
- Art. 279 of the Criminal Code (theft by breaking into a facility)—214 crimes were found.
- Art. 284 of the Criminal Code (embezzlement of property)—5 crimes were found.
- Art. 262 of the Criminal Code (insulting the corpse, human ashes or resting place of the deceased)—32 crimes were found.
- Art. 294 of the Penal Code (crimes of particular importance for culture)—15 crimes were found.

As can be seen from the above data, crime against cultural goods is contemporarily presented in a small quantitative dimension, but it should be remembered that these are often acts that irreversibly harm artefacts representing Polish national heritage.

Mechanisms used by the Polish police in fighting crime against national heritage

Actions taken to ensure the safety of cultural heritage include not only the development of an effective legal system, but also the actual actions of the authorities obliged to prevent and combat crimes in the discussed scope.[48]

On 3 November 2004, an agreement was signed among the Minister of Finance, the Minister of Culture, the Commander-in-Chief of the police and the Commander-in-Chief of the border guard on cooperation in combating illegal exports or imports of monuments from abroad by providing mutual assistance in the field of control activities, exchange of information and experiences as well as training.[49]

Another agreement between the General Conservator of Monuments and the Police Commander-in-Chief was signed on 10 March 2005. It concerns cooperation in the field of preventing and combating crime against monuments. In March 2007, the management of the General Police Headquarters ordered the creation of teams dealing with this issue in several voivodeship police headquarters, and the appointment of coordinators in the remaining ones. On the other hand, the National Team for Combating Crime Against National Heritage began to function in the police headquarters itself, which was dissolved in 2013. Its tasks at the police headquarters have been taken over by two part-time coordinators, while teams or coordinators at voivodeship police headquarters operate within the structures of criminal

[46] In 2018, a total of 795,444 crimes were recorded in Poland (source: Police Headquarters in Warsaw).

[47] Article 108 sec. 1—72 crimes, Art. 108 sec. 2—6 crimes, Art. 109a—1 crime, Art. 109c—8 crimes. Source: http://cennebezcenne.pl/wp-content/uploads/2019/03/2019-1-2-GRAJEWSKI.pdf (accessed on 2 February 2020)

[48] SEPIOŁ, Radosław. Teoretyczno-filozoficzne założenia prawodawstwa w zakresie ochrony dziedzictwa kulturowego [Theoretical and philosophical assumptions of the legislation on the protection of cultural heritage] In: DOBOSZ, Piotr, GÓRNY, Witold, MAZUR, Anna, KOZIEŃ, Adam (ed.) *Klasyczne i nowe formy ochrony zabytków w europejskiej przestrzeni dziedzictwa kulturowego* [Classic and new forms of monument protection in the European cultural heritage space], Kraków: Studio Cubus, 2019, pp. 311–332.

[49] Published in the Official Journal No. 6 of the Police Headquarters of 2004 under item 29.

departments.[50] It should be mentioned that in the structures of criminal departments of voivodeship headquarters there is a part-time coordinator or a part-time team to fight crimes against the national heritage, depending on the organisational structure of a given police unit and the need to monitor the threat of this type of crime in a specified area. The cooperation within the police consists in particular in the exchange of information between the part-time national coordinator for monuments at the police headquarters, located within the structure of the Criminal Division of the Criminal Bureau, and the part-time coordinators performing activities in the voivodeship police headquarters. The cooperation concerns activities covering not only domestic but also international matters. In addition, information is exchanged on threats and crimes related to the loss and destruction of cultural heritage, and measures are taken to coordinate the counteracting and combating of crimes against cultural goods in the country and abroad. There is ongoing cooperation with the National Revenue Administration and border guard, as well as with other institutions, in particular with the National Heritage Board of Poland, the National Institute of Museology and Collection Protection, the Ministry of Culture and National Heritage and voivodeship conservators of monuments.

On 8 February 2018, at the seat of the Department of Monument Protection of the Ministry of Culture and National Heritage, an agreement was signed on cooperation in the field of the preventing and combating of crime against monuments and other cultural goods. The purpose of the agreement is broad cooperation and the exchange of information between the conservation services and the police, as well as efficient coordination of actions taken in connection with crime against cultural heritage.

Moreover, the Ministry of Culture and National Heritage cooperates with the National Revenue Administration, border guard, the National Heritage Institute or the National Institute of Museology and Collection Protection, as well as with provincial conservators of monuments.

Polish police representatives actively participate in works of the CULTINET group which represents an informal network of contact points for cultural goods in the EU. The network was established on the basis of the EU Council Resolution No. 14232/12 of 4 October 2012.[51] Its purpose is to facilitate the exchange of non-operational information and to improve cooperation between competent authorities in the member states. In addition, the network is to enable the sharing of experience in the field of the preventing and combating of crime against cultural goods, and to complement the activities undertaken within the existing structures of the European Union, on the basis of the applicable EU regulations. Police representatives also participate in meetings of the Interpol Group of Experts on the theft of cultural goods (IEG). During the meetings, the representatives of law enforcement agencies of EU member states and the representatives of other institutions, such as UNESCO,[52] CEPOL,[53] the World Customs Organization and others, have the opportunity to exchange information on the most important problems related to the disclosure and combating of crimes against cultural goods.

[50] GRAJEWSKI, Adam. Przykłady spraw realizowanych przez Zespół do Zwalczania Przestępczości Przeciwko Dziedzictwu Narodowemu [Examples of cases carried out by the Team for Combating Crime Against National Heritage]. In: ŁUCZAK, Marek (ed.) *Służby w ochronie dziedzictwa Europy wschodniej* [Police services in the protection of the heritage of Eastern Europe]. Szczecin: Pomorskie Towarzystwo Historyczne, 2016, p. 65–84.

[51] Council Resolution 14232/12 of 4 October 2012 on the creation of an informal network of law enforcement authorities and expertise competent in the field of cultural goods (EU CULTNET).

[52] United Nations Educational, Scientific and Cultural Organisation

[53] European Union Agency for Law Enforcement Training

A crucial initiative in the field of the protection of cultural heritage provided in recent years by the police in Poland, voivodeship offices and the Catholic Church is the *Program of Labeling Movable Monuments Collected in Sacred Objects*. As part of this programme, monuments (e.g. paintings, icons, sculptures) located in churches are secured with appropriate micro particles, which are visible to electronic readers, and current photographic documentation of the object is prepared as well as conservation documentation being checked and verified.

Figure 1: *Arbeit Macht Frei* (work makes you free), after being recovered by the police and restored. Source: State Museum Auschwitz-Birkenau in Oświęcim.

The theft of the Arbeit Macht Frei inscription from the former death camp in Oświęcim as the loudest example of crimes against the national heritage in Poland in recent years

On 18 December 2009, four perpetrators stole the inscription Arbeit Macht Frei from the former death camp in Oświęcim. They were commissioned by the Swedish citizen Anders Hoegstroem, who in the past belonged to the neo-Nazi Nordic National Party and headed the National Socialist Front organisation. In total, five Poles were involved in the crime, including thieves and intermediaries.

The historical inscription Arbeit Macht Frei (work makes you free) appeared above the camp gate in July 1940. The letters of the three words cut out of sheet metal were welded between two metal tubes, and everything was assembled in the camp locksmith's shop. There is an account that prisoners, especially as part of minor sabotage or to spite the Germans, mounted the letter "B" upside down in the word Arbeit (work).

Such inscriptions were also found in other death camps, including in Terezin, Dachau and Gros Rosen. The inscription above the gate of Auschwitz was over five metres long and the letters were 30 cm high. The inscription was heavy and attached to two wooden poles. After the liberation of the camp in 1945, Red Army soldiers decided to steal the inscription. They loaded it on a railway car that was going to the East. Coincidentally, former prisoners of the camp who worked on the railway realised what the Russians were trying to remove from Poland. They bribed the guard guarding the train and the monument was hidden in the building of the town hall in Oświęcim. After the opening of the State Museum in Oświęcim in 1947, the inscription returned to its place.

From time to time, the inscription underwent conservation procedures. In 1996, the pipes were welded at the flat bar that attached the inscription, which became 15 cm longer. On the one hand, the inscription was rigid, and on the other, there was a hinge, which made it possible to lift the structure and allow any transportation to take place. The museum also tried

to get a copy of the inscription, which was used in 2006 during the renovation of the original. However, three years later, when the thieves appeared, the original was already back above the gate of the museum.

Actions taken by the police led to the arrest of the perpetrators and the recovery of the stolen monument 24 hours after the theft. The behaviour of the perpetrators, who did not have the appropriate equipment for theft, helped in this and after reaching Oświęcim, when they could not cut off the inscription with their metal shears, they went to a 24-hour construction hypermarket to buy a hacksaw and socket wrenches to unscrew the screws securing the inscription. At around 11:30 p.m. they were filmed by cameras in the store and at the cash register. After the theft, the perpetrators hid the inscription on property belonging to the family of one of them and informed the client about it. As a result of the immediate reaction of the media, which reported the theft around the world, the client most likely got scared of the public reaction to this crime and made contact with the Polish police. Anders Hoegstroem, trying to dissociate himself from this crime, provided information that, as a collector of historical memorabilia known in Europe, he received an offer from an anonymous Pole to buy the stolen inscription. In a year of further trial steps, including the testimony of the repentant perpetrators of the theft, a European Arrest Warrant was issued for the Swede, and after his arrest in February 2010, he was handed over to the Polish prosecutor's office. In 2010, the principal and the main contractors of the theft were convicted, and the sentences were handed down without a trial because the defendants expressed their willingness to submit to the punishment voluntarily and asked for a sentence without trial.

This unprecedented event resulted in a profound reorganisation of the museum's security system. The technical protection systems of the facility have been significantly expanded (CCTV system, access control systems, telemetric traffic control systems) and the full-time employment of security staff protecting all the facilities belonging to the museum has been expanded. The original of the Arbeit Macht Frei inscription was deposited in a guarded warehouse and a copy of it was mounted above the entrance gate. It should be emphasised that despite the agreement signed on 10 March 2005 between the General Conservator of Monuments and the Police Commander in Chief on cooperation in the field of preventing and combating crime against monuments, there were no task forces in the police at that time that would deal strictly with the preventing and combating of crime against cultural property and national heritage. Officers whose scope of duties was extended to include the implementation of tasks related to the prevention and combating of crime against monuments did not receive any training. At that time, such activities in the aspect of crime prevention were the responsibility of cultural and educational institutions, museums and collectors' associations. On the other hand, the procedural activities of the police consisting in the disclosing of the perpetrators of crimes against cultural property and national heritage were carried out by criminal service officers who usually did not have any specialist knowledge in this field, which many times resulted in a failure to detect or prove the guilt of perpetrators.

Opinions of police officers—voivodeship coordinators for the combating of crime against cultural goods and national heritage on the effectiveness of actions provided in this area

As part of the obtaining of research material for the article, two interviews were conducted with experts who, as part of their official duties, deal with the combating of crime against

cultural goods and national heritage.

The first interviewee was a warrant officer class II who acted as the voivodeship coordinator for the combating of crime against cultural property and national heritage. He has been dealing with this issue for 6 years and, moreover, he carries out other tasks falling within the scope of the activities of the Criminal Department of the Voivodeship Police Headquarters in Białystok, where he has been serving for several years.

Podlaskie Voivodeship is the most ethnically and culturally diverse region in Poland. Various nationalities and religions have been adjacent to this area for centuries. In addition, it borders with Lithuania and Belarus, and the northwestern border of the voivodeship is 5 km from the Kaliningrad Oblast belonging to the Russian Federation. This means that there are many objects significant for the culture and identity of the Polish nation in this area and the officers of the Podlasie police every year deal with crimes against the national heritage, not only to the detriment of Poland, but also consisting in attempts to smuggle into the EU territory cultural artefacts from former Soviet Union countries.

Officers acting as voivodeship coordinators for the fight against crime against cultural goods and national heritage (there is only one such police officer in each voivodeship) cooperate with voivodeship conservators of monuments in the exchange of information and experience, and the coordination of activities to ensure effective protection of monuments against criminal activities. On the other hand, cooperation with other services (e.g. border guard, customs service) or organisational units of the police is carried out according to general rules. Moreover, at the central level, in the Criminal Office of the Police Headquarters in Warsaw, one of the officers performs the function of the national coordinator for the protection of monuments.

In Podlaskie Voivodeship, the most common criminal procedure currently against monuments and cultural heritage is searching for monuments without the required permit or contrary to the issued permit. The destruction of archaeological sites is also associated with illegal exploration. Another quite popular crime is the destruction of monuments, both movable and immovable. The first ones are often destroyed by incompetent maintenance or an attempt to restore. In the case of immovable monuments, there are mainly acts of vandalism or actions by construction and development companies. In terms of smuggling, artefacts of culture, Poland is rather a transit country, and icons, paintings, replicas of firearms and melee weapons, historical tableware, jewellery or decorations stolen in the East are most often delivered to wealthy collectors from Western EU countries. International criminal groups, mostly consisting of citizens of the former Soviet republics, are active in this regard, and thefts are very often commissioned by the owners of private collections. In the opinion of the expert participating in the interview, very often the trade of monuments takes place in a closed group of "collectors" and they, being aware that a given item may come from a crime or an illegal source, do not put these items up for sale at auctions generally available to a wider audience. The sale takes place directly between the owners of the collection or via the internet in auctions on the so-called darknet. In addition, verification of the authenticity and legality of the origin of the artefacts sold is also very difficult, especially when the documentation concerning a certain monument is incomplete or very modest, which makes it difficult or impossible to unequivocally state that a given item is the same as the one listed in police databases as stolen. Sometimes items are incorporated into other objects or are altered, which also significantly hinders the possibility of their identification. Criminals, introducing the stolen cultural property into official circulation, count on a number of practical and legal factors that make it difficult

to convict the perpetrators and recover the work for the previous owners.

The expert participating in the interview also pointed out that currently there are few officers in the structures of the Polish police who have education in such fields as broadly understood art or archaeology, and an even smaller group of people with this type of education deal with issues related to cultural goods and national heritage.[54]

The second expert participating in the interview was an officer with the rank of lieutenant who has been serving in the Central Police Investigation Bureau for 20 years. It is an elite investigative service of the Polish police of about 2,000 officers, which deals with the combating of the most serious criminal offences, with particular emphasis on organised crime groups.[55] The interview participant stated that within the framework of actions taken against organised crime in Poland, the issues of protection of cultural goods and national heritage are very rare. So far, there has been no special police operation to introduce an undercover agent into the collectors' milieu to identify and combat illegal art trafficking. Other forms of operational work, such as, for example, the controlled granting of financial benefits, controlled purchase[56] or police encouragement to cooperation,[57] are also not used in cases related to the combating of the crime of trafficking in works of art. The mechanisms of the functioning of the underground market of trade in works of art in Poland are not well worked out so far. The fighting of this type of crime takes place "on the occasion" of combating other most serious forms of activity of organised crime, such as economic crime (tax fraud, smuggling, insurance crimes), drug crimes (production, trafficking) or criminal crimes (human trafficking, kidnapping for ransom, homicides).

In the system for the training of police officers, the issues of protection of cultural property and national heritage occur only to a minimum extent. Classes on specialised professional training courses for policemen are, in practice, limited to signaling that this form of crime occurs and belongs to the area of economic crime. Every year, all police schools in Poland (Katowice, Słupsk, Piła, Legionowo) and the Police Academy in Szczytno organise over 90 different types of specialist training for officers, but none of them is entirely devoted to the issues of the protection of cultural property and national heritage. As part of three specialist courses,[58] the issues of protection of cultural property and national heritage are discussed by

[54] Source: Interview with Warrant Officer Łukasz (full name of the policeman for the sole information of the authors) from the Voivodeship Police Headquarters in Białystok. The interview was conducted on 11 June 2020 by Izabela Nowicka.

[55] Source: Interview with Commissioner Maciej (full name of the policeman for the sole information of the authors) from the Central Police Investigation Bureau, Police Headquarters in Warsaw. The interview was conducted on 27 June 2020 by Jacek Dworzecki.

[56] Pursuant to art. 19 section 1 and 2 of the Act of 6 April 1990 on the Police (Journal of Laws of 1990 item 179) operational and reconnaissance activities aimed at verifying previously obtained reliable information about the crime and determining the perpetrators and obtaining evidence of the crime may consist in: covert acquisition, sale or seizure of items derived from the crime, forfeited or whose production, possession, transport or trading are prohibited; accepting or giving a financial benefit; submitting a proposal to purchase, sell or take over items derived from crime, forfeited or whose production, possession, transport or trade are prohibited; submitting a proposal to accept or give financial benefits.

[57] Police encouragement to cooperation represents activities undertaken by officers from the Criminal Intelligence Departments of Voivodeship Police Headquarters, the Police Headquarters and the Central Police Investigation Bureau, consisting in obtaining and servicing personal information sources. Personal sources of information are civilians with the status of a police informant, police associate or agent.

[58] These are: A specialist course in activities aimed at securing property with elements of supervision over these activities; A specialist course for police officers in the use of the information resources of the National Police

the lecturers to a minimum extent (it comes down to the presentation of the assumptions of the agreements of 10 March 2005 and 8 February 2018 concluded among the Police Commander in Chief and the General Conservator of Monuments and the Director of the Department of Monument Protection of the Ministry of Culture and National Heritage).

Officers dealing with organised crime who encounter issues related to the protection of cultural goods and national heritage in the course of their proceedings raise their level of knowledge in this area on their own and, if possible, observe the market for the circulation of works of art and monuments (usually via the internet) .

In the international dimension, the combating of crime related to the protection of cultural goods and national heritage requires close police cooperation both at the central level (formation management) and at the tactical level (local police units). A significant role in this respect is played by the police liaison officers accredited on the territory of another country, as well as joint centres of cooperation between border and police services as well as customs. An example of such effective cross-border cooperation is The Polish-Slovak Police and Customs Cooperation Centre in Barwinek, where officers from the Bieszczady Border Guard Unit in Przemyśl, the Voivodeship Police Headquarters in Rzeszów, the Podkarpackie Customs and Tax Office in Przemyśl and the Voivodeship Directorate of the Police Corps in Preszów and the Criminal Financial Office in Bratislava are on duty. The cooperation is implemented on the basis of the Agreement between the Republic of Poland and the Slovak Republic on cooperation in combating crime and cooperation in border areas, which was signed in Warsaw on 23 March 2004.

The centre has a supportive nature, it is used to exchange information and provide support to police activities concerning border protection and customs activities in border areas. Its basic tasks comprise:

- collecting and exchanging information essential for ensuring safety and public order as well as detecting crime in border areas, including the use of available databases;
- providing assistance in activities related to the search for people and things;
- mediating the transmission of requests for mutual police assistance;
- providing assistance in establishing contacts between the competent authorities of both countries;
- developing analysis, statistics and evaluations based on information obtained from the operation of cooperation centres;
- participation in the preparation of proposals for the development of cross-border police and customs cooperation as well as cooperation in the organisation and implementation of joint training;
- assisting in activities in the field of preventing and combating crime in border areas and coordinating joint patrol activities;
- providing assistance in activities related to the conduct of cross-border surveillance;
- participation in the coordination of activities related to conducting a cross-border pursuit;
- participation in the coordination of activities related to the preparation and implementation of the transfer and reception of persons;
- participation in the organising of working groups, sending of consultants and

Information System, other police systems, non-police systems and the National Criminal Information Centre; A specialist course in combating economic crime.

holding of working meetings on specific cases of criminal activity.

The centre has repeatedly assisted specialised units of the Polish (Central Police Investigation Bureau) and Slovak (NAKA) police in jointly undertaken actions against organised crime groups, which acted, inter alia, in the countries of the Visegrad Group and dealt with economic crime, including illegal trade in works of art.

In the opinion of both police experts participating in the interviews, the provisions of Polish law relating to the protection of cultural property and national heritage are sufficient and do not deviate from such legal standards in other European countries. On the other hand, a drawback in the process of identifying and combating criminal offences in the field of illegal trade in works of art or other cultural goods is still the lack of specialised police units (Teams, Sections[59]) investigating in this regard. Moreover, experts believe that joint, international initiatives (police actions, training sessions, seminars combined with the exchange of experience) in combating illicit trade in works of art are too rare. In their opinion, EUROPOL, CEPOL and FRONTEX should be more active.[60]

Conclusion

The legal regulations in force in Poland and actions taken by the state administration, aimed at ensuring the security of the national heritage, correspond to global trends and constitute an element of international initiatives undertaken in this area. The presented legal regulations of an administrative and criminal law nature play an extremely important role. The fact is that criminal provisions are subsidiary to insufficient administrative regulations. An important issue is also the criminal policy conducted in Poland, which in the context of the protection of cultural goods and national heritage has assumed a specific, organisational dimension.[61] The preventing and combating of all breaches of the security of cultural heritage requires the coherent, organised and integrated actions of many entities.[62] There is no doubt that crime against cultural heritage is evolving, which requires new methods and forms for the identification and prevention of this kind of phenomenon. An important element of the adopted strategy is to educate society and make society aware of the importance of the national heritage for a certain nation.

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[59] The team consists of 5 to 8 people and Section 8 to 15 people who carry out tasks within the structures of the Voivodeship Police Headquarters in the field of combating crime against cultural property and national heritage.

[60] European Border and Coast Guard Agency

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