



Press Release: UK Blue Shield concerned UK unprepared to prevent UK becoming a gateway for looted objects

UK National Committee of the Blue Shield (UKBS) expresses concern that the UK government is unprepared to handle the challenges of maintaining distinct systems for the import of cultural goods into different parts of the UK and has significantly underestimated the risks this might pose to the increase of illicit trafficking through Northern Ireland. On 19th May 2021, the UK began to repeal the EU Regulation on the Introduction and the Import of Cultural Goods (EU 2019/880) (“Regulation”) in Great Britain, but not Northern Ireland. The Regulation seeks to combat illicit trafficking, terrorist financing, and to protect cultural heritage. Despite agreeing with the objective, the UK Government is expected to pass the revocation quickly, as it considers it legally defective post-Brexit. The Regulation has been widely criticised¹ for its potential effects on what many countries may recognise as legally owned objects which have no contribution to terrorist financing. However, its repeal in Great Britain but not Northern Ireland could create major challenges if the UK is not well prepared.

UKBS does not oppose the revocation. However, the decision to revoke a regulation intended to prevent the funding of terrorism as one of UK Government’s first post-Brexit repeals may well cause international controversy and criticism, calling the UK government’s recent declaration that culture is key to its soft power agenda into question². The UK’s effectiveness at combatting illicit trafficking and protection of cultural property is also likely to come under scrutiny particularly as culture is on the agenda for the G20 summit in Italy in October 2021 for the first time.

The Memorandum accompanying the revocation legislation suggests existing domestic laws are sufficient to prevent illicit trafficking but in reality, they are *not actively enforced* in the UK and *do not require active checks of imported cultural goods*. Furthermore, not all legislation applies equally across the UK³, a fact which is notably absent from the Memorandum. As a result, by trying to reduce the requirements imposed by the Regulation, UK customs authorities will have to understand and operate **three** different sets of rules and laws to ensure no illicit cultural objects enter UK borders, depending on the point of entry.

Professor Peter Stone, President of Blue Shield International, states:

“The UK’s “do nothing” approach risks being seen as a nod to the rest of the world that Great Britain is the destination for objects that do not meet the strict standards of the Regulation implemented across the EU. Culture is considered a key component of soft power and a significant part of the UK international agenda, so it will be extremely disappointing if the UK turns its back on this Regulation without seriously considering what it might do to achieve the objective and restore confidence that the UK fully intends to adhere to its international commitments to protect cultural property.”

The EU adopted the Regulation in April 2019, with the aim of combatting trafficking, terrorism financing and to protect cultural heritage by preventing the import of cultural goods illicitly exported from their country of origin into the EU. Only part of the Regulation entered into force before the end of the Brexit transition period - Article 3(1), which prohibits the import of illegally exported cultural goods into the UK (and EU Member States), and which is considered *retained EU law*⁴.

Alexander Herman, Assistant Director of the Institute of Art & Law comments,

“The EU Regulation’s Article 3(1) prohibition on introducing cultural goods presents a significant expansion of the usual import restrictions for this sort of material. By repealing it, the UK may be

¹ <http://ukblueshield.org.uk/uk-blue-shield-position-paper-on-uk-adoption-of-the-eu-regulation-on-the-import-of-cultural-goods/>

² <https://www.gov.uk/government/publications/global-britain-in-a-competitive-age-the-integrated-review-of-security-defence-development-and-foreign-policy>

³ The Dealing in Cultural Objects Offences Act 2003 does not extend to Scotland.

⁴ For interpretation of “retained EU law” see [section 6 of the EU \(Withdrawal\) Agreement Act 2018](#).

seen to be facilitating the illicit trade, even if that is not its intention. Rather than a ‘quiet repeal’, the UK should instead come out and demonstrate its commitment to fighting illicit trade by ensuring that its existing national legislation is properly implemented and enforced at the border. Only through such actions will the UK be able to ensure that its art and antiquities market remains legitimate going forward.”

The Regulation also sets out a licensing system, due to come into force in the EU in 2025, which the UK has always stated it would not adopt. However, the finalised Northern Ireland Protocol (Dec 2020) declares Northern Ireland will adopt the full Regulation and the licensing system along with the EU. The Memorandum states that there will be “*some impact on the movement of cultural goods into Northern Ireland*” but gives no detail on how imports will be handled, nor the measures to prevent Northern Ireland being targeted as a gateway for cultural goods into the EU. Despite some acknowledgement of the impact, the Government maintains it will not change the way it imports cultural goods, relying instead on intelligence. However, this is extremely problematic: to adequately implement Article 3(1) (and ultimately the Regulation) in full, many changes will be required, and **it is imperative** that these measures are fully considered during the upcoming parliamentary debate.

Cultural property lawyer and Chair of UKBS, Fionnuala Rogers, notes

“It is highly likely that the EU will want to ensure that Northern Ireland does not become a gateway for cultural goods to enter the EU in violation of the Regulation. Equivalent checks will need to be carried out in Great Britain, and UK customs will need to ensure that cultural goods being exported to Northern Ireland, whether destined for the EU or not, have not been illegally exported from their country of origin, a check that is not currently required at UK borders. Ultimately, the UK is going to have to make some significant changes as a result of this Regulation, despite the revocation.”

Once the EU licensing system is operational, UK authorities will need to issue licences on behalf of Northern Ireland and will almost certainly need some form of access to the EU database. Actively keeping the Regulation in Northern Ireland could also contribute to the offences the Regulation is designed to counter—potentially allowing goods with questionable legitimacy into the EU, effectively through a back door. The Revocation is the first step in what will become a significant separation between Great Britain’s approach to cultural goods and that of the EU and Northern Ireland.

UKBS expresses its sincere concern that UK Government has not adequately considered how it will ensure adequate support, training, expertise and funding for Northern Ireland to comply with its obligations under the Regulation, or how it intends to harmonise the disjointed UK legislation in order to ensure the UK is will not become a gateway for illicitly trafficked objects. It is essential that the UK Government considers these matters during the parliamentary debate. Further, in recognition of UNESCO’s commitment to raise awareness of how to build an ethical art trade and in celebration of the 50th Anniversary of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970 (signed by the UK in 2001), UKBS also calls for a UK-wide working group to discuss how to mitigate the risks created by the inconsistent legal systems, and to support those tasked with implementing them.

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United Kingdom Committee of the Blue Shield (UKBS) is a member of the Blue Shield network, who are “*committed to the protection of the world’s cultural property, and is concerned with the protection of cultural and natural heritage, tangible and intangible, in the event of armed conflict, natural- or human-made disaster*”. See <http://ukblueshield.org.uk/>

Blue Shield International is an advisory body to UNESCO on the protection of cultural property in the event of armed conflict. It has 28 national committees (with more under construction) across the world. See <https://theblueshield.org/>