

What Are the Art Dealers Doing to Fight the Illegal Trafficking of Cultural Property?

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1. The *Associazione Antiquari d'Italia*

The *Associazione Antiquari d'Italia* was established in **1959**, with the goal to support and share the ideals of the Florence International Antiques Fair.

The scope of our Association is to ensure that its members have a dialogue with national authorities and advocate for the interests of antique dealers in Italy.

Article 2 of the By-laws of our Association states that our main goal is to promote, regulate, protect and represent the interest of antique dealers.

Throughout the years, the Association has succeeded in consolidating its position as the reference institution representing antique dealers in Italy.

Today our Association counts 160 members and is part of the International Federation of Art & Antique Dealer Associations (**CINOA**). **We are involved in the organization of top-end cultural events, including conferences designed to foster the knowledge of antiques and antique dealing. To this same end, we also offer scholarships and awards, and we contribute to sponsor books and the restoration of Italian cultural heritage.**

2. Antiques Trade, Compliance and Due Diligence

All members of our Association are accredited merchants, acting in full compliance with national and international laws when buying and selling art.

At the very core of any antique dealer's business is the **compliance with a rigorous code of ethics, imposing transparency and guaranteeing the quality and the authenticity of the goods offered for sale.**

However, data show that the illicit trafficking of cultural property is an increasingly worrying phenomenon. The exponential surge in transactions on the art market, along with the diversification of purchasing platforms and the persisting economic downturn, has facilitated the exchange of stolen or illicitly removed cultural objects. This phenomenon is often related to terrorism and money laundering. Today, the trafficking of stolen art is one of the most profitable illicit activities, with annual profits amounting to billions of dollars worldwide.

Therefore, the goal of our Association is to raise awareness of the risks faced by the art market and provide a practical guidance on establishing and implementing responsible practices to manage those risks. In practical terms, **this consists in setting out compliance and due diligence good practices that should be followed by any person involved in buying and selling antiques.**

“Compliance” is a term borrowed from heavily regulated industries (such as the financial industry) and means that the regulated subject must abide by the applicable laws and regulations. In our Association, a serious violation by a member of a mandatory law provision or industry regulation may result in the membership termination by our Board (article 5 of the By-laws).

“Due diligence” is commonly referred to as an investigation or exercise of care that a reasonable business or person is expected to take before entering into an agreement or contract with another party. Frequently, **investigations require that experts be involved (e.g. lawyers, art historians, restorers).**

Compliance

According to article 3 of our By-laws, to become a member of our Association candidates must show evidence of compliance of the relevant Italian laws and regulations and, in particular: a) they must be registered with the Italian tax authority (*Agenzia delle Entrate*) - and be in possession of a VAT number - and with an Italian Chamber of Commerce; b) they must enjoy a renowned reputation as serious and expert antique dealers and c) they must show that they have been actively engaged in the antiques trade for at least 5 years.

Furthermore, according to Royal Decree 1931, number 773 (TULPS: article 126), **all our members must be duly licensed by the State, verify the identity of clients and consignors and keep a register where all daily transactions must be duly recorded.** The register must show who is the counterparty in every transaction, as well as all other legally required information. This register shall be made available to law enforcement officers and agents upon request. Identity should be verified based on official identity documents (such as passport or national ID card).

When trading with a company, antique dealers should always verify who has control over the company or who is the company’s controlling owner (the so-called beneficial owner). These checks should be made in order to avoid dealing with any money-laundering or terrorist financing organization, which could involve security as well as reputational risks for the business involved.

The form and the purpose of a transaction are also to be taken into account when assessing the risk of an antiquity sale. Particularly, antique dealers should pay special attention to the source of funds used in a transaction and be particularly alert to risks of money laundering or terrorist financing.

Finally, compliance with export laws is also of paramount importance. Our Association, together with other industry associations and art market participants, is currently advocating for a reform that will simplify the procedures and secure that export controls be more efficiently carried out and export licenses be issued in a timely fashion.

Current export procedures could be greatly facilitated if a digital database of all property declared of cultural interest was made publicly accessible.

Due Diligence

In the antique trade, due diligence is about asking the right questions on authenticity or attribution, provenance and restoration, and obtaining reliable answers.

Provenance

One of the most important rules in risk assessment for any business involved in the antiques trade is ensuring that the provenance of an object can be established with certainty, in order to make sure that it was not previously stolen or illicitly removed.

Provenance research has a fundamental importance given the increasing number of cases involving Nazi-looted art: more and more heirs of the victims of Nazi plunders and robberies are now going to court and asking for the restitution of what was illicitly stolen from their families.

Therefore, a “gap” in the history of an artwork can be considered as a “red flag”, because it creates suspicions about its provenance and negatively affects its market value, jeopardizing its further title transfers. Today, accessing *ad hoc* databases of stolen art, such as the Carabinieri TPC database or the Art Loss Register, is a necessary preliminary step in order to make sure that an art object has not been illegally removed. **To this regard, I would like to thank the Carabinieri Unit for the Protection of Cultural Heritage (*Tutela del Patrimonio Culturale*) for their continuous and relentless efforts in fighting the illicit trade of cultural heritage. Your action is essential to safeguard our activity and, at the same time, ensure the protection of our national treasures.**

Italian law imposes an obligation, for professional traders in art and antiquities, to provide the buyer with a certificate of authenticity and provenance of the objects we sell. Article 64 of the Cultural Heritage Code provides that anyone who sells paintings, sculptures or objects of antiquity or historical or archaeological interest to the public, must provide the buyer with the appropriate documentation certifying the authenticity or at least the probable attribution and origin of the work. The sale of any antique object that is not accompanied by such certificate is to be considered as a “red flag” and, thus, raise concerns on its provenance.

Documents which can be helpful in establishing ownership and provenance include: invoices, receipts, dated photographs, insurance records, valuations, official records, exhibition catalogues, invoices for restoration work, diaries, dated newspaper articles, original signed and dated letters, tags.

Authenticity and Attribution

Authenticity and attribution are the other essential aspects to be considered by traders in antiques. Fakes and forgeries are increasingly present on the market and, in some cases, it is

difficult or even impossible to assess with absolute certainty whether an object is authentic or may be attributed to a certain artist.

Determining authenticity is a complex task and the checks required will depend on the specific artwork. Authenticity research should involve experts preferably art historians or other experts not engaged in the art trade (in order to avoid a possible conflict of interest). Artist foundations and estates, authentication boards and committees, as well as *catalogues raisonnés*, if available, should be consulted.

Conclusions

In light of all the challenges in risk assessment that I have just described, our Association is constantly working to encourage all its members to take further steps in order to detect any possible “red flags” in their activities and contrast illicit trafficking. Antique dealers should be ready not only to verify any suspicious circumstances, but also to act properly in response of such situations, and train their staff to do so.

The diligence required to sellers and buyers of antiques cannot be considered negligible, not even in the name of secrecy and confidentiality. The risk of dealing with post-sale legal disputes over an artwork depends largely on whether or not we have acted with the degree of attention required not only by statutory rules, but also by our code of ethics.

Therefore, observing a high standard of compliance and due diligence is the best strategy for all antique dealers to reduce any risks associated with their investments. This will allow us to avoid time and money-consuming disputes with uncertain outcomes.

The *Associazione Antiquari d'Italia* is engaged in its fight against the illicit trafficking of cultural objects. **We hope that we will be able to work closely with the Italian authorities, particularly the Carabinieri, in order to ensure that the art and antiques sector is protected by a set of laws and regulations allowing transparency in the market and, most of all, security in every transactions.**