2017 Security Network Summerschool

The Hague, 6-8 September



«waakzaam en dienstbaar»

Consortium of European Research Libraries

POLITIE

Coordinates

Martin Finkelnberg
Netherlands National Police Force
Art and Antiques Crime Unit
P.O. Box 100
3970 AC Driebergen
the Netherlands
Martin.finkelnberg@politie.nl
+31650665309

Organisation

- **Public prosecutor's office**
  - Dedicated national public prosecutor
- **National Police Force of the Netherlands**
  - 1 National Police Unit
    - National Criminal Intelligence Division
      - Art and Antiques Crime Unit
  - 10 Regional Police Units
    - Divisions
      - Dedicated Police Officers



Art Crime



Art Crime – Art Related Crime

- Theft
- Receiving stolen goods
- Embezzlement
- Criminal damage / vandalism
- Counterfeits, forgeries and fakes
- Fraude
- Extortion
- Money laundering
- Treasure hunting
- Illicit trade
- Fundraising – terrorism (?)

- Found items

Theft

- **Article 310 of the Dutch penal code**
  - A person who removes any property belonging in whole or in part to another, with the object of unlawfully appropriating it, is guilty of theft and liable to a term of imprisonment of not more than four years or a fine of the fourth category.
- **Article 311 - special circumstances**
- **Article 312 - violence**

“Any property”



=



“Any property”

- “Property” is not named in our penal code
- Except for ……

“Any property”

- The only “property” named in the Dutch penal code !

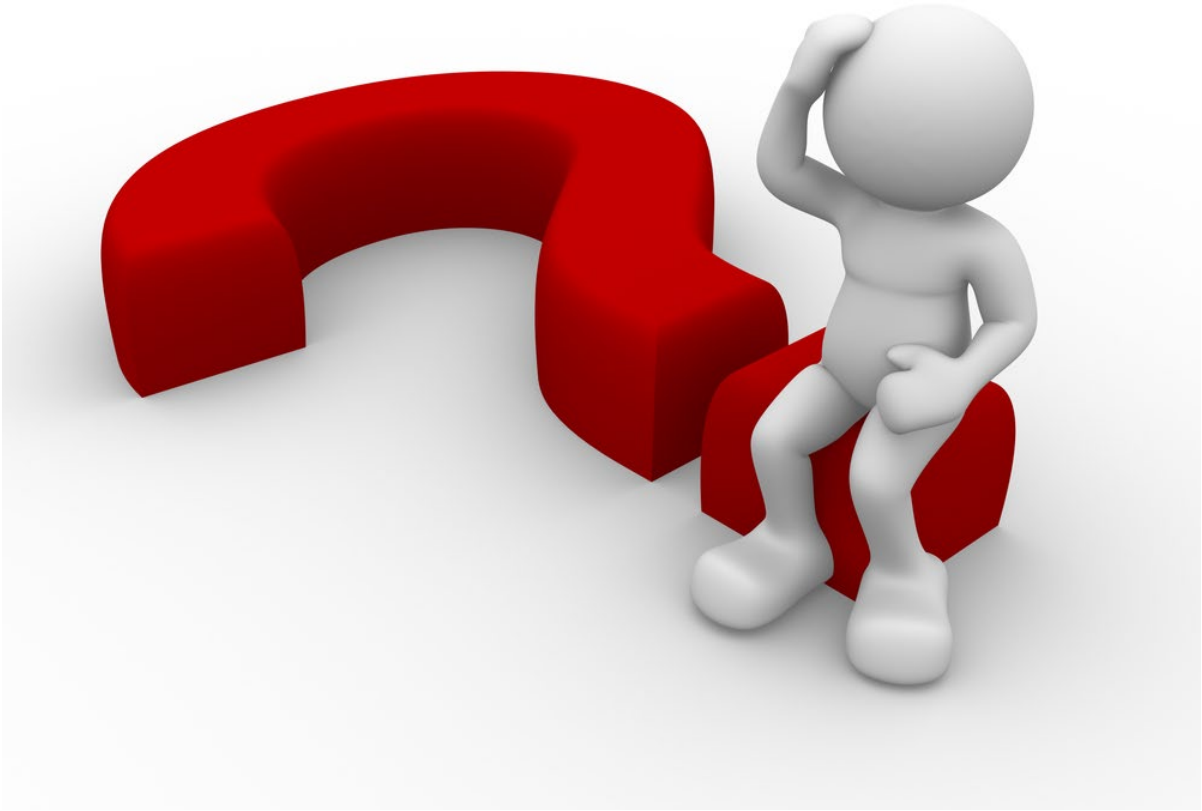




Theft

- **Article 311 of the Dutch penal code**
  - 1. A prison sentence not exceeding six years or a fine of the fourth category will be imposed on:
    - 1°. theft of livestock from grazing land;

Networking



Networking (1)

- **Public Prosecutor's Office**
  - National Public Prosecutor
- **Netherlands National Police Force**
  - 10 Regional Police Units
    - Dedicated Police Officers
- **Interpol**
  - Conferences
  - Expert meetings
  - Seminars
  - Projects
- **Europol**
  - European multidisciplinary platform against criminal threats (EMPACT)
  - Action weeks - PANDORA
- **CEPOL**
  - Seminars

Networking (2)

- **European Union**
  - CULTNET
- **Cultural Heritage Organisations**
  - Cultural Heritage Inspectorate
  - Cultural Heritage Agency
  - Netherlands Institute for Art History
  - Universities
  - Museums
  - UNESCO
  - ICOM

Networking (3)

- **Private organisations**
  - KVHOK – Royal Association of Fine Art Dealers
  - TMV – Dutch Federation of Certified Appraisers, Brokers and Auctioneers
  - NGA – Netherlands Gallery Association
  - TEFAF/pAn
  - Art Loss Register
  - ArtSecure
  - Etc.

Partner in Crime



- **Cultural Heritage Inspectorate**
  - http://www.erfgoedinspectie.nl/english/organisation

Interpol

- **Organisation Internationale de Police Criminelle**
- **International Criminal Police Organisation**
  - 1923



Europol

- **European Police Office**
  - The Hague 1998



Legislation (1)

- **Penal code**
- **Civil Code**
- **Cultural heritage law (since 2016)**
  - UNESCO 1970 (2009)
  - Protection of national cultural property (1984)
  - Monuments (1988)
  - The Hague Convention 1954 (2007)

Legislation (2)

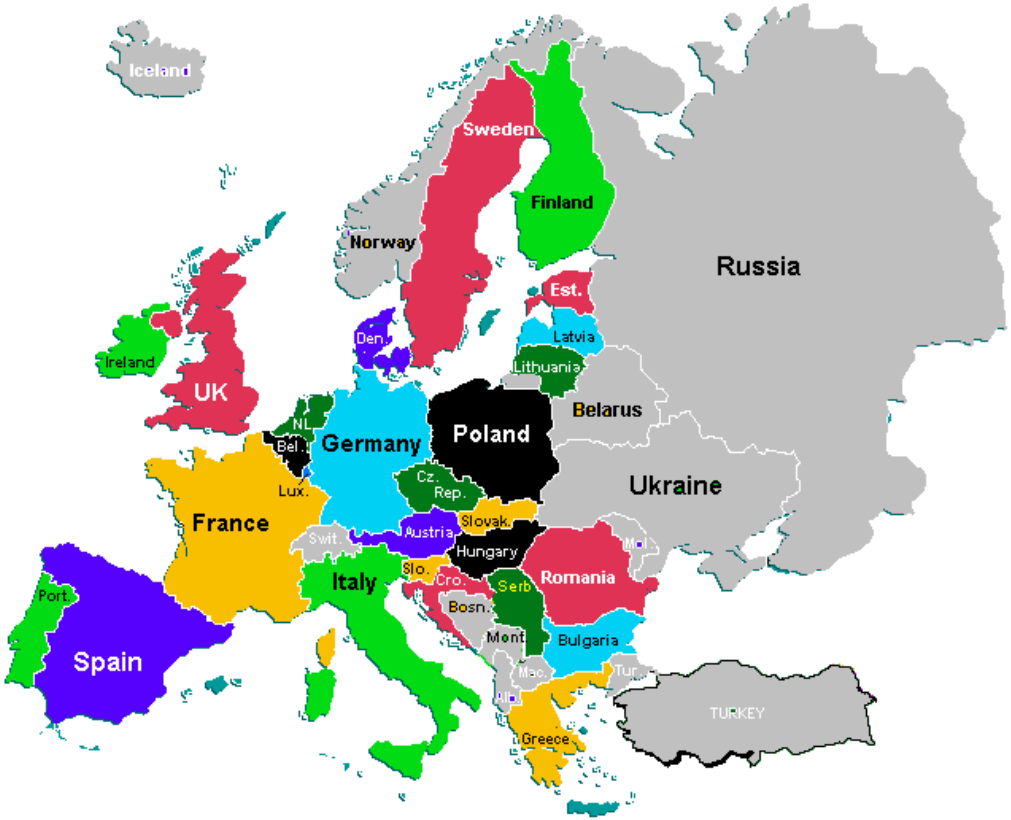
- **Economics crime law**
  - Sanction law 1977
    - Sanction rule Iraq (2004 II)
    - Sanction rule Syria (2012)
- **EU Council Directive 93/7/EEG**
- **EU Council Regulation (EG) 116/2009**
- **European Convention on Mutual Assistance in Criminal Matters (1959)**

European Convention on Mutual Assistance in Criminal Matters (1959)

- Article 3
  - 1. The requested Party shall execute in the manner provided for by its law any letters rogatory relating to a criminal matter and addressed to it by the judicial authorities of the requesting Party **for the purpose of procuring evidence** or transmitting articles to be produced in evidence, records or documents

- International Letter Of Request (ILOR)

28 Countries + 28 Legislations
=
1.000.000 Problems



What can we do if we …..?

- **Receive a correct ILOR**
  - Execute it to the letter
- **Receive an incomplete or incorrect ILOR**
  - In essence nothing
  - We need to ask for additional information
- **Receive a request without having some sort of treaty**
  - Nothing
  - Exept Iraq and Syria
- **Stumble across something irregular without proof of any crime**
  - Be resourceful
- **Discover cultural goods misappropriated during an armed conflict**
  - Turn to the competent authority

Case studies



Germany, 2006



Romania, 1990

Case study #1

- **January 20th, 2013**
  - Amsterdam dealer #1
  - Buys Roman statuette 1st/2nd century AD
  - From private individual T.J., known to the trade
  - Pays a fair price, appr. 9,000 Euro
  - Dealer complies with Dutch legislation
    - demands statement of provenance
    - registers the purchase in a formal register (art. 437 PC)
    - makes photocopy of seller's passport



Statement of provenance

HERKOMST VERKLARING

Bij deze verklaar ik T.H.P J geboren 16-04-65 wonende ,Leur.

Ik ben in bezit van dit 1/2 eeuwse romeinse bronzen beeldje een dansende Lar 16 cm met stralen kroon over de armen hangende tunica een triton met stier in de linker opgeheven arm schaal in rechter hand niet meer aanwezig heeft ingelegde ogen(of gehad).

Dit beeldje is aangekocht door mijn vader in 1972 en is al die tijd in zijn privé bezit geweest dit heb ik in 1998 van hem gekregen en sindsdien in mijn eigen privé collectie.

Getekend te Leur op 20 januari 2013

T.H.P J

This statuette was bought by my father in 1972 and has been in his possession untill 1998 when he passed it on to me and it has been part of my private collection since.



Case study #1

September 2013

- Amsterdam #1 dealer is preparing for pAn
- Checks with ALR
- Statuette stolen in Germany 2006
- Reports to Amsterdam police he is possession of stolen item
- Item not in Interpol data base
- BKA has no info regarding theft

October 2013

- BKA confirms item was stolen from a museum in 2006



Case study #1

Options

- Deal with it in accordance with EU Directive 93/7
  - Declined by the victim/museum
- Start a criminal case against Amsterdam dealer
  - In accordance with the European Convention on Mutual Assistance in Criminal Matters (1959)
    - July 2014, Germany sent ILOR
- Mediation
  - Did not take place
- Start criminal case against Mr. T.J.
  - Amsterdam dealer has to file charges



What happend next?

- **Amsterdam police interviewed dealer**
  - Dealer is good faith owner according to Dutch law
    - Case will never go to court
    - Dealer can do with the item as he pleases
- **German museum dealt directly with dealer**
  - Museum bought back the item
    - Thus committing a crime according to German law (?)



Case study #1

- **The real criminals in this case**
  - The thief
  - Mr. T.J.
    - Receiving stolen goods
    - Fraud
    - Money laundering



Case study #2

March 2013

- Amsterdam #2 dealer is preparing for TEFAF
  - Commissioned by collector to sell statuette



117.

GALLO-ROMAN BRONZE FIGURE OF VENUS.
Standing naked apart from diadem on her head, raising her left hand with apple of the Hesperides towards her shoulder, other arm stretched out; one leg bent from knee. Dark green patina. H. 11,5 cm. Mounted on stand. Ex coll. J.B., Belgium 1980s. 2nd-3rd cent. AD

€ 8750



Case study #2

March 2013

- Amsterdam #2 dealer is preparing for TEFAF
  - Commissioned by collector to sell statuette
- ALR - Statuette stolen in Romania 1990
- Item in Interpol data base



Case study #2

INTERPOL

e-ASF work of art search

Basic information	
Type:	**SCULPTURE**
Subject/Title (English):	**GODDESS VENUS**
Period:	2ND-3RD CENTURY A.D.



Description	
Information:	ORIGIN: TIBISCUM - JUPA, CARAS-SEVERIN COUNTY, ROMANIA
Material:	BRONZE
Technique:	CARVED/THREE DIMENSIONAL , CAST
Height (cm):	9.80

Administrative Information	
Country of event:	Romania
Place of event:	TIMISOARA
Date of event:	11 December 1990
IPSG reference:	2008/3004-1.8 »
NCB reference:	1719525/08/BCR
Type of event:	Theft

Case study #2

Options

- Deal with it in accordance with EU Directive 93/7
  - Not possible – item was stolen in 1990
- Mediation
  - Did not take place
- Start a criminal case against owner
  - In accordance with the European Convention on Mutual Assistance in Criminal Matters (1959)
    - Romania sent incomplete ILOR



Case study #2

Problems

- Statutes of limitations
  - Theft 12 years
  - Ownership after 20 years



Case study #2

Statuette was seized by the Amsterdam police

- Public prosecutor did not take case to court
- Public prosecutor intended to return statuette to museum
- Owner did not cede the statuette to previous owner
- Owner claimed to be good faith buyer
- Owner argued statuette is not the one stolen
- Owner went to court to get it back



What happend next?

The Court

- **Considering that**
  - Public prosecutor did not prove the item to be the one stolen
  - One can not expect buyers to exercise extra due diligence
  - Ownership claims on stolen item are statute barred

- **Decided**
  - The statuette to be returned to the owner



Case study #3

- **Separate cases but …….**





Case study #3

- **TEFAF – Maastricht, March 2014**
  - Amsterdam dealer #2
  - Roman torso 1st/2nd century AD
  - In consignation
  - Provenance private collection the Netherlands 1969
  - Interest from museum in Amsterdam





Case study #3

- **April 2014**
  - Private collector wants to talk about certain cases
  - Torso …….
  - Sold to a certain Mehmet in Duisburg, Germany
  - Put up for auction Gorny and Mosch Munich 2013
  - Fixed reserve 75,000 Euro
  - Not sold
  - Consigner …



Case study #3

- **April 2014**
  - Private collector wants to talk about certain cases
  - Torso was owned by
  - Sold to a certain Mehmet in Duisburg, Germany
  - Put up for auction Fixed reserve 75,000 Euro
  - Not sold
  - Consigner … Mr. T.J.

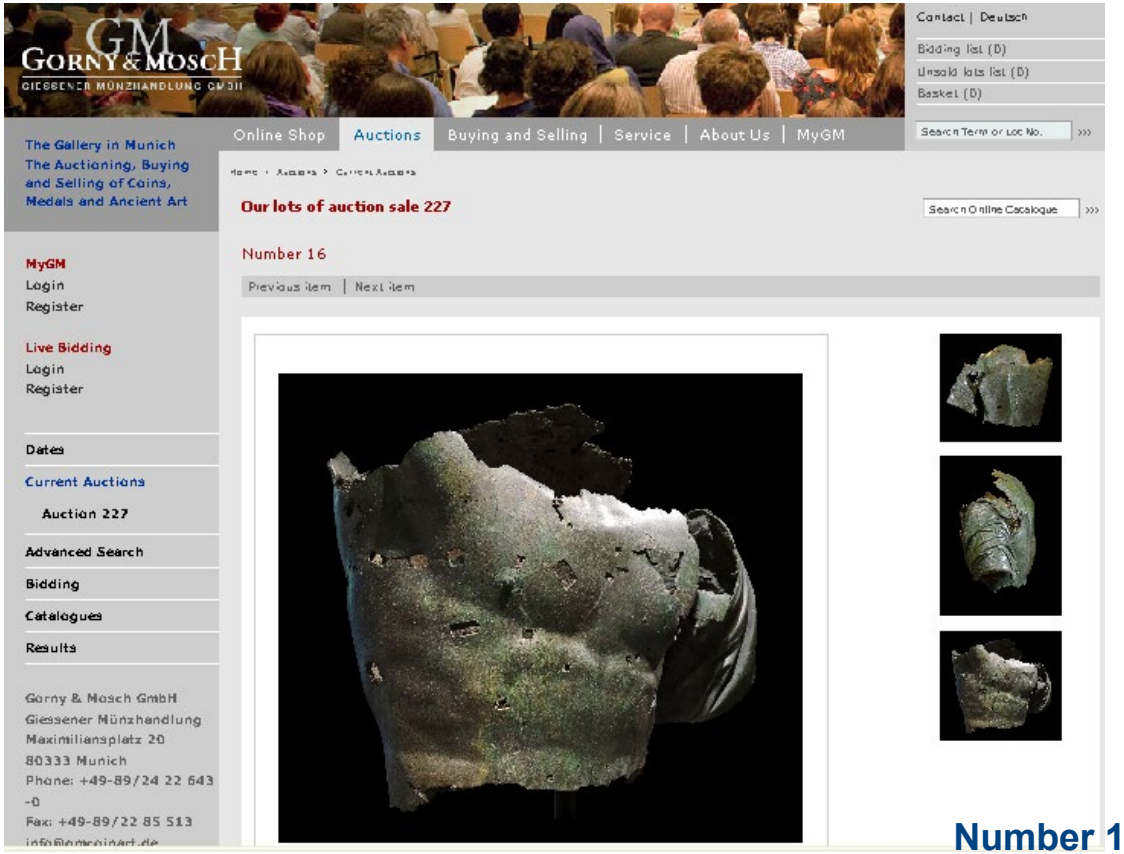


Case study #3

- **What happened next?**
  - Informed Cultural Heritage Inspectorate
  - Informed museum about questioned provenance
  - Museum declined purchase
  - BKA are looking into the matter
    - Can torso be seized pending investigation?
      - Not according to Dutch law
  - Put up for auction again
  - Asking price 65,000 Euro
  - Withdrawn



Case study #3



Number 16 Überlebensgoßer Bronzetorso.

ZURÜCKGEZOGEN/WITHDRAWN

Case studies #1 and #3

- **Separate cases but …….**





Mr. T.J.



- **One common denominator**

Case studies #1 and #3

- **Problems**
  - Dealers acted in good faith - Dutch law
  - Dealers acted NOT in good faith – German law
  - Different statutes of limitation on theft
  - Different legislations regarding ownership
  - Limitations due to Privacy law





Not only bad news

- Iraq sanction rule



- Netherlands penal code



- “Common sense”

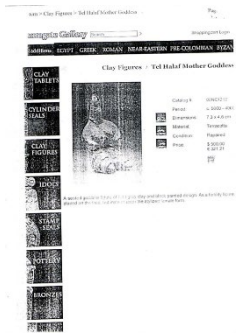


- The Hague Convention 1954



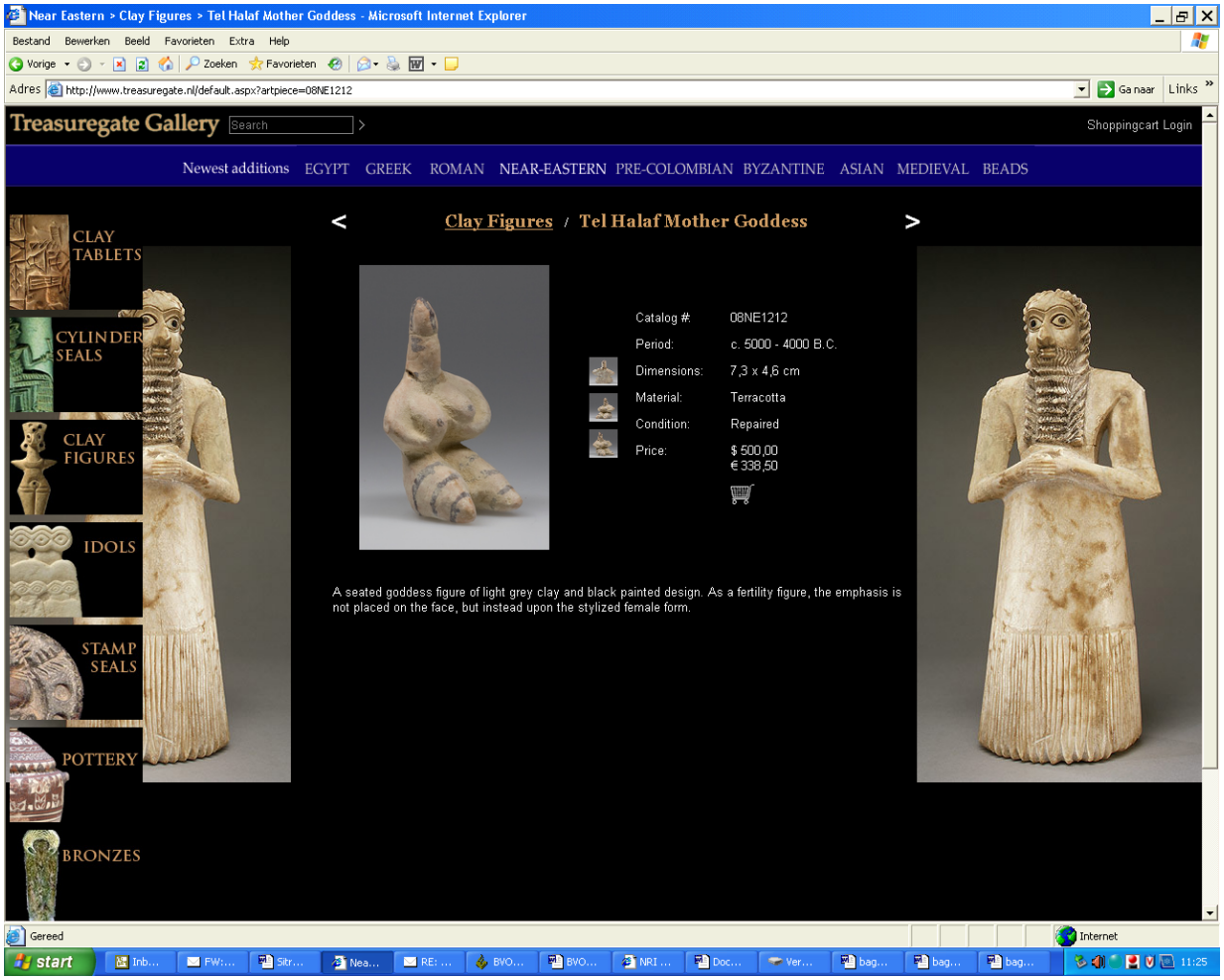
Sanction rule cases

- 2008 – Friendly request IP Baghdad
  - Treasuregate Gallery



- 2008 – Investigation US Customs
  - Ancient Art Gallery
- 2009 – “Accidental discovery”
  - Private sale
- 2011 – Friendly request IP Baghdad
  - Private sale

Treasuregate Gallery



Treasuregate Gallery

- Seven cylinder seals



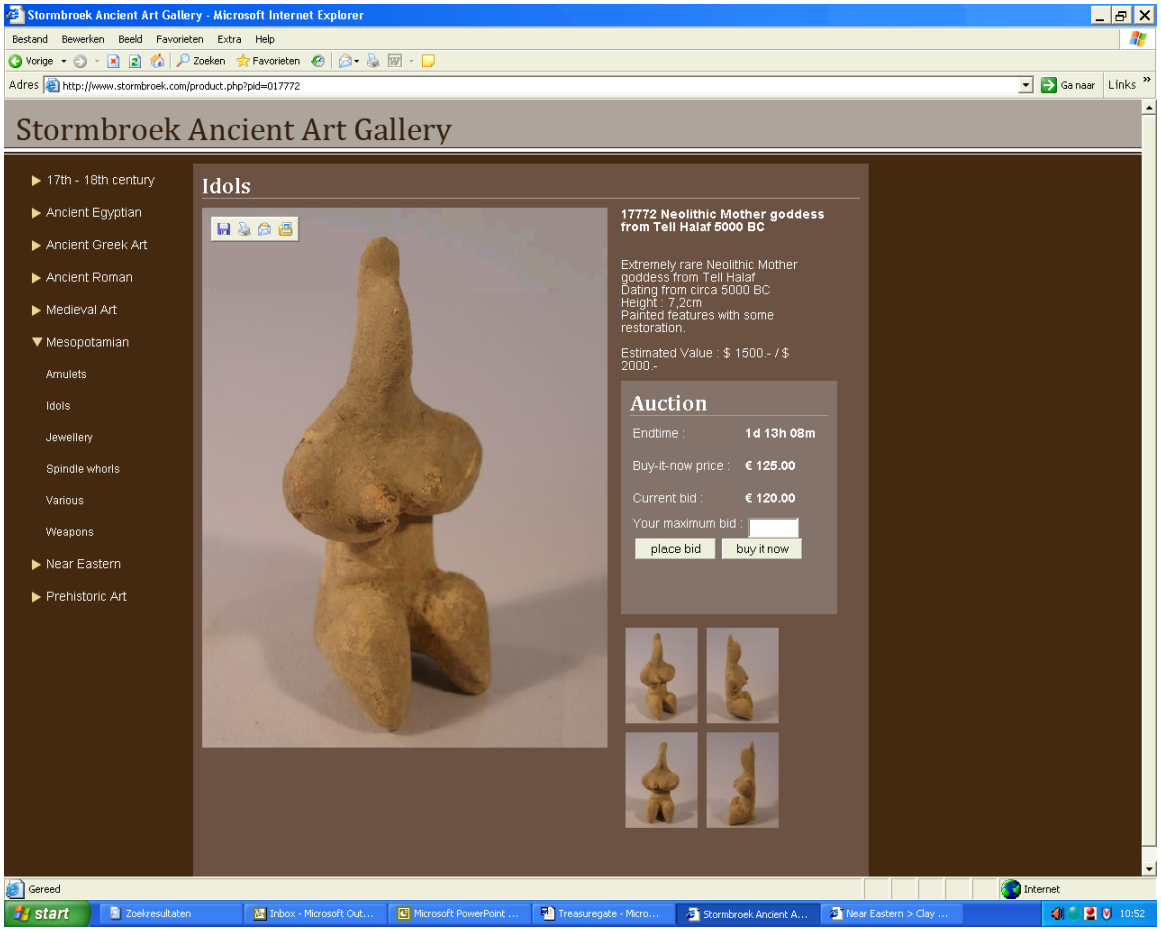
- One sikkatu



- One tile fragment



Ancient Art Gallery



Ancient Art Gallery

- 59 Various terracotta items







Private sale



Back to Iraq


RETOUR
14 januari t/m
14 februari 2010
Rijksmuseum van Oudheden
RAPENBURG 28, LEIDEN WWW.RMO.NL

Penal code case - Icons

- **2011 - Amsterdam dealer preparing for pAn**
  - One icon in the on-line catalogue
- **Greek authorities claim icon was stolen**
  - Two major thefts (+50 in total)
  - Allready several recovered in UK
  - Greek sent incomplete ILOR
    - Amsterdam police start investigation anyway
- **Amsterdam police discover dealer bought 7 icons**
  - Dealer did not comply with dutch legislation
    - Therefore guilty of receiving stolen goods
  - One icon allready sold
    - Good faith buyer returned icon

Penal code case - Icons

- **Case goes to court**
  - Dealer convicted for receiving stolen goods
  - Judge ruled icons to be returned to Greece
  - 2012 Icons returned to Greece



“Common sense” case - Seccos

- **2011 - The Hague dealer in oriental Christian art**
  - **In possession of two Greek seccos**
    - Bought by Michel van Rijn in 1985 from UK collector
    - Paid appr.1,200 pounds in total
    - Today’s value appr. 300,000 euros each
  - **1995 - Discovers seccos were stolen in Greece in the early 1980’s**
  - **Is in contact with Greek authorities since 1995**
  - **2010 - Receives request (again) from Greece to return them**

“Common sense” case - Seccos

- **Asks me what to do**
  - My answer …..
    - Just give them back and take your loss
  - His reply …..
    - I will do that provided Greece pays me 40,000 euro compensation in accordance with UNESCO 1970
- **Which crimes do you think he committed?**
  - Receiving stolen goods
  - Money laundering

“Common sense” case - Seccos

- **Problems**
  - No proof of actual theft
  - Therefore no proof of receiving stolen goods
  - And no proof of money laundering

- **Solution**
  - I told him I would ask Greece to confirm his story
  - And that I would ask Greece to send an ILOR
  - Informed him that he could be guilty of several crimes

“Common sense” case - Seccos

- **Dealer’s reaction**
  - A seven page letter telling me what he thought of me
  - November 2012 he had the seccos delivered to the Greek embassy in The Hague





The Hague 1954 Convention Case

- **Private individual in possession of 4 icons**
  - Taken from northern Cyprus immediately after Turkish occupation in 1974
  - In possession for nearly 30 years
- **Ratification of the first protocol in 2007**
- **Steps made to change Dutch law**
  - Cultural Heritage Inspectorate
- **Returned to Cyprus 2015**

Erfgoedinspectie
Ministerie van Onderwijs, Cultuur en Wetenschap



Thank you.

