

SUBJECT: Response to the Letter of Protest by the International League of Antiquarian Booksellers.

Regarding your grievances made by e-mail, prot. n. 16572 of 06.08.2014, relating to the rejection by the Court of an offer of cooperation from the ILAB for the recognition and retrieval of books unlawfully removed and placed on the international antiquities market, it states the following.

Regarding the books withdrawn from the library of the Girolamini Oratory of Naples, it is stated that the Direzione Generale is unable to provide a complete list of them, because part of the inventory of the library was missing. A task force of experts librarians, engaged in a reconnaissance work on the damaged assets, is working on behalf of the Magistracy, whose investigations are still ongoing. It is not possible, therefore, to publish material which may interfere with the criminal investigation of the Prosecutor of Naples, which operates independently from the Ministero dei Beni e delle Attività Culturali e del Turismo.

However, it is believed that there are no impediments to ILAB in assisting the Italian state in its efforts of preventing the illicit trade of Books. The Code of Cultural Heritage and Landscape, approved by D.Lgs 42/2004, covers all rules to this effect. In the present case are called upon: the art. 64 on the obligation for those who sell to the public, to provide the purchaser with the documentation attesting to the authenticity or at least the probable attribution and provenance of the cultural goods offered on the market, it follows that the bona fide purchaser has the obligation to apply for that certificate; also Art. 68 on the obligation for those who intend to let out definitively a cultural good, from the Italian territory within the European Union to request from the appropriate department a "free circulation" certificate valid for three years and, in the case of export outside the territory of the Union, to require, at the same time, an export license valid for six months.

The observance of these rules by any seller can reassure the ILAB on the lawful origin of the bibliographic good to be purchased; in the absence of such documentation, however, the asset is considered to have been illegally exported.

As regards, moreover, the possibility for ILAB to access the database of unlawfully removed cultural goods of the Ministry, we inform you that this is handled by the Carabinieri in charge of the Cultural Heritage Protection in accordance with the arrangements set out below.

In the database are included, among other things, all the books subject of a report of theft or shortage found during inventory.

Only the institutional bodies and associations / Italian sector federations are able to access the consultation of the database. The ILAB, therefore, as an international organization, does not have such a possibility, but the ALAI (Italian Association of Antiquarian Booksellers), registered in Italy among the ILAB national members, is allowed consultation access by its members and has been since it was activated in June 2008.

The authorizations, based on confidential credentials required from the individual associated to his trade association, are released by the Carabinieri in charge with Cultural Heritage Protection. The inclusion by the applicant of the picture of the good under investigation allows a consistent verification between the control required and the checked good. The verification, if negative, shall be communicated to the applicant, if so, however, the operating procedures for the recovery of the good begin. It is not possible, however, under any circumstances, to access sensitive data relating to the item sought, but only to its picture and technical data (type of asset, size, material, technical execution, period, and author). All data, however, essential to establish the origin of the item that a potential buyer intends to buy.

For all practical purposes, we communicate that, based on information provided by the Data Processing Section of the Carabinieri, neither ALAI nor its 24 members whose access to the database have been approved, have ever carried out any checks since the database was created, nor did they report experiencing difficulties in using this service.

ILDIRETTORE GENERALE (Dott.ssa Rossana Rummo)

Dear Dr. Rummo,

Concerning your letter to our colleague, ILAB President Norbert Donhofer, in response to the open letter he sent to various members of Governmental Institutions, I would like to clarify the following points:

1) The investigations, as they have been conducted so far, are causing an enormous amount of damage to our trade and are not very effective in recovering stolen material. The police and judiciary authorities should immediately start a direct collaboration with our trade associations, rather than relying on Mr. De Caro's statements. The recent disgraceful case of an auction in Rome where all the 900 books of the sale were confiscated even though not a single book was stolen from an Italian public library (or elsewhere) is a dramatic and unprecedented example, even if the books were all restituted several months later.

This was a huge waste of time and public funds, and caused extensive damage to the reputation and activity of the auction house and all the sellers who had entrusted it with the sale of their property. The common practice of the investigating authorities, to confiscate property from booksellers and collectors based only on identifying an author, a title and publication date, without any regard for characteristic differences between various copies of a same title, and most importantly without checking the provenance of a book (it is no coincidence that the vast majority of confiscated books are given back to their owners as a result of a laborious and expensive request for release from seizure process), even when such provenance could easily be proven before confiscation has taken place. This is a very serious attack on the right of property. It would be as if authorities, upon learning of the theft of a Bianchi bicycle, were to confiscate the first bicycle of that brand they would happen to fall upon, without even asking its owner for proof of provenance. This is exactly what is now happening.

2) Unfortunately, not even certificates issued by the competent authorities guarantee 100% the legal origin of any book. For example, books stolen by De Caro had obtained export licences from the Superintendence of Milan. In the absence of signs of provenance and reports of thefts, it is impossible to be certain of the legal provenance of a book. Unfortunately, there are many cases of unstamped library books which are stolen from libraries without anyone noticing their absence for a very long time. And when their absence becomes noticed, in order not to mention them as lost or misplaced, the library declared them as “stolen”, resulting in the beginning of an investigation such as described.

3) The database of stolen books Nucleo TPC is very difficult to use, as it can only be searched for images and not in a way that is totally accessible. I personally have never managed to do so, for purely technical reasons, and it is the same for all the colleagues who obtained login access that I have questioned on the subject. Our secretary, who managed the issuing of logins, talked about this with some representative of Nucleo TPC, but the problem was never solved and seems unsolvable. In any event, the fact remains that, even if the database were really accessible, a bookseller cannot investigate a database of stolen books whenever he is buying a book of modest value. One must also remember that often a bookseller will buy a collection consisting of several hundred volumes, most of which are of negligible value and many of which are available on the market in several dozens copies. Apart from the impossibility of investigating such books one by one (it remains worthwhile however to spend time investigating books of a more significant value), it must be noted that, even if there was a title match in the database, it would be not be very relevant in the absence of specific signs of identification, as it could be a different copy. It is worthwhile remembering that books are and have been printed in multiple copies, and even several copies of 16<sup>th</sup> century books can be found on the market at any given time. To conclude, and I say this with regret but firmly, our Associations (ILAB and ALAI) no longer feel in any way guaranteed by Institutions. The almost daily thefts in Italian public libraries are a demonstration that the Italian State is no longer able to manage its book collections and the responsibility for this state of affairs is being carried solely by the booksellers. Forgive me for these bitter considerations, but our trade is already threatened by various factors such as the collapse of the national market and the difficulty to access foreign markets due to all the export regulations that you know well and this is already a great stress to bear. In addition, the regular confiscations and complaints (which almost always, I repeat, come to nothing) are giving the coup de grace to our profession. As you have repeatedly stressed, booksellers and auction houses are an integral part of the book supply chain, as well as an essential bulwark against illegal activities. We are the only ones in this supply chain who have to ask for export licenses, while the sales of books online by private sellers are run outside all of these rules.

Thank you very much for your kind attention.

Best regards,

Frabrizio Govi  
ALAI President

Dear Dr. Fabrizio Govi,

I paid much attention to your comments on my letter sent in answer to ILAB President Norbert Donhofer, and I hope in turn to give you a brief reply aimed at a closer cooperation between the institutions we represent in protecting national bibliographic heritage.

As regards point 1), in which you complain of the damage done to your trade by the investigational methods of the police, I would like to draw your attention that the episodes you mention concern only operations of the judicial police working in the service of the Judiciary in the investigation laid out in the context of criminal proceedings.

I want to emphasize that the Ministry of Cultural Heritage and Activities DID NOT AND SHOULD NOT exercise any interference in those operations to avoid being an obstacle or interfering with the Prosecution who works in complete and total independence from the Ministries whose power, both political and administrative, can only be effective because of the separation of powers dictated by the Constitution.

Regarding point 2) and your conclusions, I agree with you that it is not always easy to determine with certainty the origin of all volumes available in the trade, but this also applies to cultural assets (also for the reasons that you pointed out such as, often, the lack of signs of origin). For these reasons, surveillance cannot be superficial. The Code of Cultural Heritage requires that the directors be responsible for protection (state, regions) to ensure compliance with the rules, as efficiently as possible, to protect our bibliographic heritage (by issuing certificates, different licences and permits).

Regarding point 3), we take note of what you have pointed out with respect to the limitations of the MIBACT data base, edited by the Comando Carabinieri in charge of the protection of cultural heritage as an instrument of control of the lost or stolen goods. In the absence of more effective instruments, the database is a great tool for those working in the sector. An instrument, certainly, to be improved, but that can be used in any case at its best and for which it would be essential to request access by the ALAI and report, also in a formal way, to the Carabinieri for any technical malfunctions. For this matter too, we can also be a spokesperson.

In this regard, and contrary to what you state, the Comando Tutela claims that he has never received from the ALAI any notice of difficulty in using this tool.

A final observation about your reflections about the fact that the State is no longer able to manage its collections of books.

Allow me to point out that, apart from the sensational case of the Biblioteca Oratoriana dei Girolamini, in which the Ministry tried to remedy, among other things, by taking the responsibility for the future of all functions and competences originally delegated to the Convent, it does appear from the reports of the Carabinieri that most of the books unlawfully on the market do not have a public provenance but belong to individuals or libraries that, although are public, are not State.

All of these institutions, regions, municipalities, religious institutions, are struggling to fully comply with the rules of inventorying, cataloguing and taking safety measures as dictated by the Ministry, trying thus to control their own cultural heritage.

We are talking about a huge cultural heritage for which the MIBACT is increasingly committed, also financially supporting initiatives or registry and cataloguing projects, such as the rich and varied libraries of ecclesiastical property.

As you surely know, official data has shown that in the lists of thefts of cultural property, books are in the first place!

To summarize, I would like to point out that the illicit trade, in spite of the efforts of institutions and associations such as yours, is invading the domestic and international market, and that it cannot be fought by lessening the controls or even deleting some of them, but by respecting the rules by all the operators of the sector. And, as has repeatedly been called for by your association, by adopting uniform rules throughout the country.

In this difficult fight against illegality, I am certain that the ALAI will be a good ally since even the antiquarian trade can only find advantages in a serious and regulated management of cultural heritage. The protection of property coincides with the protection of the interests of the clients of the art market and feeds, in a kind of virtuous circle, the confidence in this particular market segment.

I thank you for the point for reflection this has brought to my attention.

Best regards  
Rossana Rummo