



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 4th October 2016

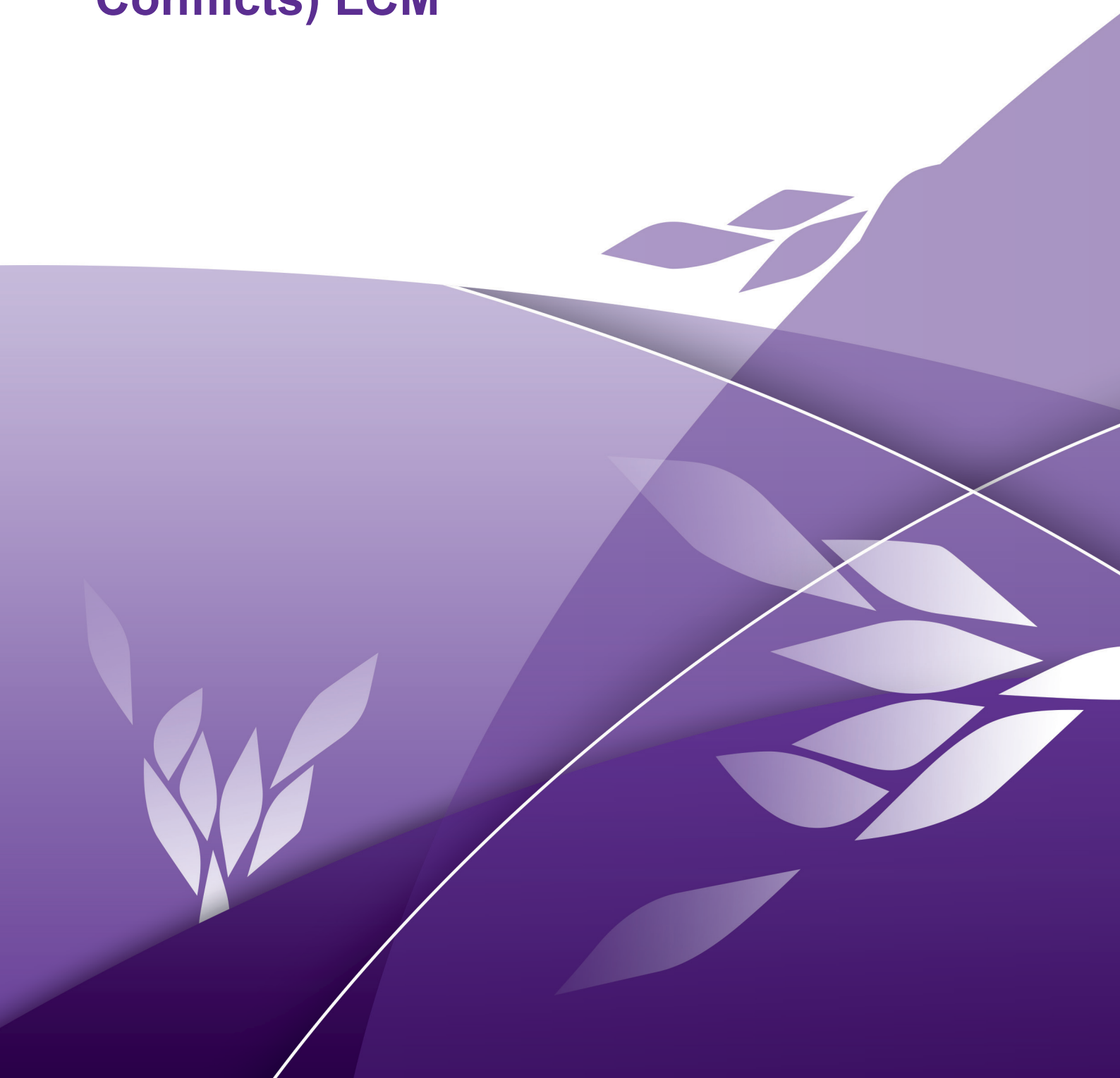
SP Paper 16

2nd Report, 2016 (Session 5)

Web

European and External Relations Committee

# Cultural Property (Armed Conflicts) LCM



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

---

All documents are available on the Scottish  
Parliament website at:  
[www.scottish.parliament.uk/documents](http://www.scottish.parliament.uk/documents)

For information on the Scottish Parliament  
contact Public Information on:

Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

© Parliamentary copyright. Scottish Parliamentary Corporate Body

The Scottish Parliament's copyright policy can be found on the website –  
[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

# Contents

<b>Background</b>	<b>1</b>
<b>Bill Overview</b>	<b>1</b>
<b>Committee Scrutiny</b>	<b>2</b>
<b>Recommendation</b>	<b>3</b>

# European and External Relations Committee

The remit of the European and External Relations Committee is to consider and report on—

- a. proposals for European Union legislation;
  - b. the implementation of European Communities and European Union legislation;
  - c. any European Communities or European Union issue;
  - d. the development and implementation of the Scottish Administration's links with countries and territories outside Scotland, the European Union (and its institutions) and other international organisations; and
  - e. co-ordination of the international activities of the Scottish Administration.
2. The Committee may refer matters to the Parliamentary Bureau or other committees where it considers it appropriate to do so.
  3. The convener of the Committee shall not be the convener of any other committee whose remit is, in the opinion of the Parliamentary Bureau, relevant to that of the Committee.
  4. The Parliamentary Bureau shall normally propose a person to be a member of the Committee only if that person is a member of another committee whose remit is, in the opinion of the Parliamentary Bureau, relevant to that of the Committee.



[parliament.scot/european-committee](http://parliament.scot/european-committee)



[Europe@parliament.scot](mailto:Europe@parliament.scot)



0131 348 5234



Follow the European and External Relations Committee @SP\_European

## Committee Membership



**Convener**  
**Joan McAlpine**  
Scottish National Party



**Deputy Convener**  
**Lewis Macdonald**  
Scottish Labour



**Jackson Carlaw**  
Scottish Conservative  
and Unionist Party



**Ross Greer**  
Scottish Green Party



**Rachel Hamilton**  
Scottish Conservative  
and Unionist Party



**Emma Harper**  
Scottish National Party



**Richard Lochhead**  
Scottish National Party



**Stuart McMillan**  
Scottish National Party



**Tavish Scott**  
Scottish Liberal  
Democrats



## Background


1. The [Cultural Property \(Armed Conflicts\) Bill](#) (“the Bill”) was announced in the Queen’s speech on 18 May and introduced in the House of Lords on 19 May 2016. The UK Bill is intended to enable the UK to implement the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 and the Protocols to that Convention of 1954 and 1999.
2. The Hague Convention, adopted in 1954 in the wake of the destruction of cultural heritage during the Second World War, is an international treaty on the protection of cultural heritage in the event of armed conflict.

## Bill Overview

3. The Bill is divided into six parts and contains four Schedules. These Parts are as follows:
  - **Part 1:** sets out key definitions.
  - **Part 2:** incorporates into domestic law the offence created by Article 15 of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the event of Armed Conflict (“the Convention”), makes provision in relation to ancillary offences and extends criminal liability to commanders and superiors who fail to prevent the commission of an offence in certain circumstances.
  - **Part 3:** prohibits the unauthorised use of the cultural emblem, the symbol created by the Convention to identify cultural property which is protected. The Bill makes it an offence to use the emblem otherwise than as authorised by, or under the Bill. It identifies authorised uses of the emblem, and gives the appropriate national authority power to designate further authorised uses.
  - **Part 4:** makes provision in relation to cultural property which has been unlawfully exported from an occupied territory. It creates a new offence of dealing in such cultural property, and makes further provision in relation to that offence, providing for the forfeiture of the cultural property concerned. Further, it provides powers of search and seizure if there are reasonable grounds for suspecting that unlawfully exported cultural property may be found at a premises. It provides for the retention of such cultural property so that it may be returned to the competent authorities of the territory previously occupied at the close of hostilities, in fulfilment of the United Kingdom’s obligation under the First Protocol to the Convention.
  - **Part 5:** provides immunity from seizure or forfeiture of cultural property which is entitled to special protection under Article 12 of the Convention because it is being transported to the United Kingdom, or through the United Kingdom to another destination, for safekeeping during a period of armed conflict.

- **Part 6:** sets out general provisions.<sup>1</sup>

## Committee Scrutiny

4. Under the Sewel Convention, the UK Parliament does not normally legislate on devolved matters, or alter the executive competence of Scottish Ministers, unless the Scottish Parliament has given its consent. Under the Convention, the Parliament should normally signify its consent before the final amending stage in the House of introduction, which in this case is the House of Lords. The Bill had its first reading in the House of Commons on 13 September 2016 and the date for the second reading has yet to be announced.
5. The Scottish Government lodged memorandum LCM-S5-1 on 23 June 2016. The Legislative Consent Memorandum (LCM) was lodged as the Bill relates to the devolved matter of cultural property and includes provisions dealing with the creation of new criminal offences and the powers of the courts and the police.
6. At its meeting on 13 September, the Parliamentary Bureau agreed to recommend to the Parliament, by motion, that Rule 9B.3.5 be suspended for the purpose of allowing the European and External Relations Committee to consider and report to the Parliament as the lead committee on the LCM on the Cultural Property (Armed Conflicts) Bill; and that, subject to the Parliament agreeing to the motion, to refer the LCM on the Cultural Property (Armed Conflicts) Bill to the European and External Relations Committee. The Parliament subsequently agreed to suspend Rule 9B.3.5 at its meeting on 14 September 2016. The European and External Relations Committee considered the LCM at its meeting on 22 September 2016.<sup>2</sup>
7. The Committee was supportive of the Bill and its aims, particularly in light of recent incidences of cultural violence in some parts of the Middle East.
8. Deputy Convener, Lewis McDonald MSP welcomed the Bill and commented that:  
 “it will not have escaped any of us how much cultural violence has occurred in the middle east in the past two years, with Palmyra the obvious case in point. It has taken some time to get here, but it is important that Governments take action to address what is happening in situ. We also should not ignore the suggestion that a lot of the cultural violence by Daesh or so-called Islamic State has been directed in order to increase the value of artefacts on the black market in Europe. If, as intended, the bill criminalises black-market trading in cultural artefacts that are stolen from middle eastern countries that are affected by Daesh activities, that is very welcome. As the Parliament’s culture committee as well as the international committee, we should endorse the measure.”
9. Richard Lochhead MSP reiterated these points, and emphasised the need for the legal system in Scotland to be able to deal with illegal trade:





“It is important that Scottish judicial authorities and the Scottish Government are alive to the prospect that any of that illegal trade may make its way into Scotland. From a UK and Scottish perspective, it is a good bill.”

## Recommendation

The Committee recommends that the Parliament give its consent to the legislative consent motion as set out in the LCM.

---

<sup>1</sup> [Cultural Property \(Armed Conflicts\) Bill, Explanatory Notes, Paragraph 1.](#)

<sup>2</sup> [European and External Relations Committee, Official Report, 22 September 2016.](#)

