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## **SAFEGUARDING UKRAINE'S CULTURAL HERITAGE IN WAR: IDENTIFYING THE OBLIGATIONS OF NON- PARTIES TO THE CONFLICT, WITH SPECIAL FOCUS ON THE EUROPEAN UNION**

**Abstract:** Russia's aggression against Ukraine is a true war against cultural heritage. However, while international law regulates the obligations and duties of parties to an armed conflict, the effective protection of cultural heritage largely depends on the conduct of non-participants. Hence this article addresses the nature and content of the legal obligations to protect Ukraine's cultural heritage incumbent on non-parties to the conflict. Its main focus is on the European Union (EU) due to its close political, legal, economic and cultural ties with Ukraine. It explains that cultural considerations today permeate almost all EU policies. In addition, Member States and the Union itself are bound by a number of international law obligations in relation to cultural heritage and cultural rights. This article further demonstrates that such obligations increasingly address the protection of heritage as a common good of all humankind, linked to the maintenance of global peace and security, and to the protection and promotion of all human rights. While referring to the EU's current practice in safeguarding Ukraine's heritage, this article envisages and advocates further developments in this respect.

**Keywords:** Ukraine, armed conflict, international cultural heritage law, human rights, European Union

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## 1. Introduction

In June 2023 the Council of the European Union (EU or Union) issued Conclusions on the fight against trafficking in cultural goods (2023 Conclusions).<sup>1</sup> This instrument was adopted in the context of the EU action plan against trafficking in cultural goods (2022 Action Plan),<sup>2</sup> and Russia's continuing war of aggression against Ukraine. It thus emphasised the need to safeguard cultural heritage in conflict areas, particularly the specific situation of Ukraine.<sup>3</sup> It also confirmed the Union's increasing 'support to the protection of Ukrainian cultural goods from destruction and theft and illicit export by supporting registration and, if requested, evacuation and physical protection of collections'.<sup>4</sup> In fact, since 2022 many efforts have been made in this regard, albeit still in a very uncoordinated manner.<sup>5</sup>

In such a context, this article queries the nature and content of the legal obligations to protect Ukraine's cultural heritage incumbent on actors of international law that are not parties to this conflict. Indeed, whilst international law regulates the obligations of participants in armed conflict with regard to the duty to respect cultural heritage, its effective protection nevertheless depends to a large extent on the conduct of non-parties. In other words, the protection of cultural heritage belongs to those areas of international law which greatly relies on multilateral and multi-level cooperation undertaken for the sake of the wider common interest.

This article, while employing the international law perspective, focuses on the European Union (EU) which due to its close political, legal, economic, and cultural ties with Ukraine is particularly concerned with and affected by the current conflict. First, the current threats to Ukraine's cultural heritage are summarised. Second, this article outlines the core international law obligations to respect cultural heritage in or flowing from conflict-ridden and occupied territories vested to neutral states and to the international community as a whole. Third, it delineates the EU cultural heritage legal and policy framework. This explains that, whilst the Union's constitutional

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1 9387/23, Brussels, 8 June 2023.

2 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU action plan against trafficking in cultural goods, COM(2022) 800 final, Brussels, 13 December 2022.

3 2023 Conclusions, 18th recital.

4 Ibidem, para. 10.

5 Campfens et al., *Research for CULT Committee*, 50-69, 93-101.

provisions address the matters of culture and heritage in a limited way, cultural considerations today permeate almost all EU policies. In this regard, it emphasises that Member States and the Union itself are bound by a number of international law obligations in relation to cultural heritage and cultural rights. Hence this article demonstrates that both the obligations of EU law and that stemming from international law rules relate not only to the protection of the heritage of each individual state and/or their regional cultural interests. Indeed, these increasingly relate to the protection of heritage as a common good of all humankind, linked to the maintenance of global peace and security, and to the protection and promotion of all human rights. Next, the EU's current practice in respect of safeguarding Ukraine's cultural heritage is recalled. Finally, this article concludes with more general remarks on the nature of international law obligations concerning the protection of cultural heritage in armed conflicts. In this regard, further developments towards the safeguarding of Ukraine's cultural heritage are envisaged and advocated.

## **2. Threats to Ukraine's Cultural Heritage in the Context of Russia's Aggression**

While Russia's full-scale invasion of Ukraine started in February 2022, the pillage of cultural heritage already continued in the territories occupied since 2014, primarily in Crimea. In fact, the peninsula and Ukraine's northern shore of the Black Sea preserve a extremely rich archaeological heritage of many peoples and cultures living in these areas for thousands of years. Since the collapse of the Soviet Union, these have been the subject of illicit excavations,<sup>6</sup> yet with Russia's occupation, numerous, official large-scale diggings in Crimea, directed by the State Hermitage Museum in Saint Petersburg, and the Russian Academy of Sciences, have been undertaken.<sup>7</sup> In addition, objects from Crimean museums were exhibited in the leading Russian institutions: Tretyakov Gallery and the Pushkin Museum. It has not been confirmed whether they have ever returned to the original locations.<sup>8</sup> Since 2022 these actions have continued on the recently invaded territories and a number of reports are emerging on the removal of artefacts from

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6 Jakubowski, "Black Sea Tomb Raiders and the Practice of Global Cultural Exchange", 76-79.

7 Munawar and Symonds, "Empires of Lies?", 4.

8 Campfens et al., *Research for CULT Committee*, 95.

Ukrainian museums and sites, with the help of Russian museum officials and curators.<sup>9</sup>

Alongside widespread looting, many heritage properties have been damaged or destroyed, both intentionally or as a collateral damage during Russia's military operations. As of 18 October 2023, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) has verified damage to 295 sites.<sup>10</sup> Yet the scale of the destruction and looting of individual movable cultural assets, particularly archaeological sites, is difficult to estimate.

It should be emphasised that Russia's actions have been undertaken as part of a broader strategy of annihilating Ukrainian national identity, historical memory, and language.<sup>11</sup> The plundering of cultural property and the destruction of heritage sites are connected with the process of the "Russification" of the occupied territories and their inhabitants.<sup>12</sup> These include deportations of the civilian population, including children, and the abusive control of education and school teaching.<sup>13</sup> Russia's crimes in Ukraine, therefore, have the nature of a systemic attack on the culture and cultural heritage, both tangible and intangible, of its population.<sup>14</sup>

The extent and intentional nature of the crimes committed by Russia in Ukraine, a European state and one of the permanent members of the United Nations Security Council (UNSC) – the body that upholds the global legal order – poses a number of challenges to international law and the international community.<sup>15</sup> Indeed, what is the role and responsibility of other international law actors in countering these crimes and their consequences?

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9 For instance, see Bushard, "These are Some of the Most Famous Ukrainian Works of Art"; Campbell, "Russia's Art Raids in Ukraine".

10 UNESCO, "Damaged Cultural Sites in Ukraine".

11 Read further Zalaszińska and Brodowska, *Saving Ukraine's Culture*, 22-49.

12 Akinsha, "Scythian Gold is at the Heart of Russia's Identity War"; Mullins, "Ukraine's Heritage is Under Direct Attack".

13 Dixon, "Russia Sending Teachers to Ukraine".

14 Campfens et al., *Research for CULT Committee*, 95-101.

15 Kwiecień, "The Aggression of the Russian Federation Against Ukraine", 19-20.

### 3. Core International Law Cultural Heritage Obligations

Cultural heritage law is one of the youngest and still evolving branches of international law with 'all the uncertainties that this entails'.<sup>16</sup> In fact, most treaty law does not offer substantive obligations and well-designed mechanisms for their compliance and review. This is for instance the case of regional cultural heritage conventions, such as those adopted under the auspices of the Council of Europe (CoE) which often refer to framework policy guidelines and standards. On the other hand, the body of international cultural heritage law cannot be confined to the limited number of treaties with explicit cultural content. Indeed, nowadays 'almost every specialist area of international law and major areas of general international law have dedicated provisions relating to cultural heritage, which are *lex specialis*'.<sup>17</sup> Furthermore, there are increasing synergies between often fragmented regimes of international heritage rules and institutional frameworks, particularly in relation to 'the wartime and peacetime protection of tangible cultural heritage'.<sup>18</sup>

While Russia and Ukraine are parties to the vast majority of UNESCO and CoE cultural conventions (the provisions of which are systematically violated by the former), the constant attacks, destruction and plundering of cultural heritage cannot, however, be considered solely in the context of Russia-Ukraine legal relations. Indeed, international cultural heritage obligations are not only designed to offer mutual actions in protecting cultural heritage located on the respective territories of states parties, but also to provide international assistance against dangers and threats to cultural heritage in order to safeguard the values and interests collectively shared and cherished by the international community. In fact, cultural heritage obligations stem nowadays from the matrix of international law rules that must be systematically interpreted *vis-à-vis* common aims shared by all humankind – peace and security, human rights and development – corresponding to the three pillars of the UN system.<sup>19</sup> Importantly, in 2022 the representatives of one hundred-fifty UNESCO's members affirmed that

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16 Blake, *International Cultural Heritage Law*, 5.

17 Vrdoljak and Francioni, "Introduction", 9.

18 O'Keefe, "Cultural Heritage and International Humanitarian Law", 74.

19 Charter of the United Nations, signed 26 June 1945, 1 UNTS XVI, as amended, Article 1.

culture (including cultural heritage) is a ‘global public good’, that requires its special recognition within the UN legal order.<sup>20</sup>

In such a context, the core task in respect of Russia’s war of aggression is thus to identify and delineate the body of international obligations binding states and other international law actors – not involved in the conflict – to safeguard Ukraine’s cultural heritage.

First, the protection of cultural heritage in armed conflict is governed by an array of international humanitarian law rules, both by the virtue of treaty law, primarily the Convention for the Protection of Cultural Property in the Event of Armed Conflict (the 1954 Hague Convention),<sup>21</sup> and enshrined in international customary law rules. Unsurprisingly, most of them impose on states obligations in relation to pre-conflict preparatory measures and, more importantly on their conduct during military operations in armed conflict and belligerent occupation. Only to a limited extent do they refer to the duties of neutral states to safeguard cultural heritage in or flowing from the territories ridden by armed conflicts in which they do not participate. Yet to some extent non-parties are bound to undertake to apply international humanitarian law rules with the view of fulfilling its humanitarian object and purpose in relation to protected properties or to assume the role of monitoring the observance of those rules by the parties to the conflict.<sup>22</sup> More precisely, these concern the duty to take into custody objects of movable cultural heritage illicitly removed from the occupied territory and return them once the conflict is over to that formerly occupied territory. This obligation is enshrined, both under Article 3 of the First Protocol to the 1954 Hague Convention,<sup>23</sup> and it is also considered to be binding by the virtue of international customary law.<sup>24</sup> Furthermore, it also recognised in the instruments on the peacetime protection of tangible cultural heritage, particularly Article 11 of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer

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20 UNESCO World Conference on Cultural Policies and Sustainable Development – MONDIACULT 2022, Final Declaration, *signed* 30 September 2022, UNESCO Doc. MONDIACULT-2022/CPD/6, paras. 19-20.

21 Convention for the Protection of Cultural Property in the Event of Armed Conflict, *opened for signature* 14 May 1954, 249 UNTS 240.

22 Compare Antonopoulos, *Non-Participation in Armed Conflict*, 130.

23 Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, *opened for signature* 14 May 1954, 249 UNTS 358.

24 For instance, see UNESCO, General Conference, Res. 3.5 (13 November 1993), UNESCO Doc. 27 C/Resolutions + CORR; preamble; for an overview, see Zhang, “Customary International Law”.

of Ownership of Cultural Property (1970 UNESCO Convention).<sup>25</sup> States are bound to ensure compliance with this obligation in national law through appropriate national regulations and institutional framework. This may also entail the establishment of safe havens for the custody of foreign endangered cultural objects.<sup>26</sup>

A more complex issue regards the protection of immovable cultural heritage located in conflict-ridden territories. In fact, the protection of such properties and sites, even those recognised as being of great importance to all humankind, poses great and understandable challenges for actors not involved in the conflict. In this regard, the core international regime is that of the World Heritage Convention,<sup>27</sup> binding nearly all states of the world. Parties to this treaty are required to protect any listed cultural sites situated on their territory, and to refrain from measures that might damage listed cultural sites situated on the territory of another State Party. Threats to World Heritage Sites caused by an armed conflict may give basis for including such properties on the List of World Heritage in Danger (Article 11(4) World Heritage Convention), that may trigger international assistance.

Another obligation under international humanitarian law is to take necessary measures and steps to prosecute and impose penal or disciplinary sanctions for those individuals responsible for violations of the duty to respect cultural heritage in armed conflict. Certain particularly grave violations conflict must be prosecuted on the basis of universal jurisdiction.<sup>28</sup> These might be also penalised under international criminal law, and in accordance with Article 86 of the Rome Statute of the International Criminal Court,<sup>29</sup> States Parties to this treaty 'shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court'. Moreover, under the UNESCO Declaration on the Intentional Destruction of Cultural Heritage (2003 UNESCO

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25 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, *opened for signature* 14 November 1970, 823 UNTS 231.

26 Jakubowski, "International Protection of Cultural Heritage in Armed Conflict", 171-79.

27 Convention Concerning the Protection of the World Cultural and Natural Heritage, *opened for signature* 16 November 1972, 1037 UNTS 151.

28 Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, *opened for signature* 26 March 1999, 2253 UNTS 21, Article 17.

29 Rome Statute of the International Criminal Court, *opened for signature* 17 July 1998, 2187 UNTS 90.

Declaration),<sup>30</sup> Member States of this organisation have recognised ‘the need to respect international rules related to the criminalization of gross violations of human rights and international humanitarian law, in particular, when intentional destruction of cultural heritage is linked to those violations’ (Article IX). It is to be added that in terms of investigations and policy and customs services cooperation the normative and policy framework has been established primarily under the regime of the UN Convention against Transnational Organised Crime,<sup>31</sup> binding nearly all states of the world. Importantly, the cooperation agenda has been built by the Conference of the Parties to this treaty, the UN Office on Drugs and Crime, World Customs Organisation, Interpol, UNESCO, the International Council of Museums (ICOM), and other organisations working in this field.

Next, the protection of cultural heritage in armed conflict is increasingly perceived as a human rights issue.<sup>32</sup> Importantly, the link between heritage and human rights is firmly established by the 2003 UNESCO Declaration which provides that such deliberate acts ‘may have adverse consequences on human dignity and human rights’.<sup>33</sup> Furthermore, the UN Special Rapporteur in the field of cultural rights (UN Special Rapporteur) noted that cultural heritage should be understood as ‘living and in an organic relationship with human beings’, a perspective which ‘encourages its preservation and discourages its destruction’.<sup>34</sup> Following the call for a human rights approach to the protection of cultural heritage,<sup>35</sup> a dialogue has recently been established between the UN Special Rapporteur and UNESCO to reinforce

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30 Declaration on the Intentional Destruction of Cultural Heritage, *adopted* 17 October 2003, UNESCO Doc. 32 C/Resolutions Res 33 Annex, preamble, 5th recital.

31 United Nations Convention against Transnational Organised Crime, *opened for signature* 12 December 2000, 2225 UNTS 209.

32 For instance, see CoE, Parliamentary Assembly, “Cultural Heritage in Crisis and Post-crisis Situations”, Resolution 2057 (2015), para. 1; ICJ, *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Provisional Measures, ICJ order of 7 December 2021.

33 2003 UNESCO Declaration, preamble, 5th recital.

34 UN HRC, “The Intentional Destruction of Cultural Heritage as a Violation of Human Rights”, Report by Karima Bennouna, Special Rapporteur in the Field of Cultural Rights (9 August 2016), UN Doc. A/71/317, para. 16.

35 UNHRC, “Cultural Rights and the Protection of Cultural Heritage”, Resolution 37/17 (22 March 2018), UN Doc. A/HRC/RES/37/17.



the human rights approach to cultural heritage protection during armed conflict.<sup>36</sup>

The right to be protected from cultural destruction has been made subject to judicial examination at both the national and international levels. More recently, the International Criminal Court (ICC), in its Policy on Cultural Heritage, strongly emphasised that '[c]rimes against or affecting cultural heritage (...) can have varying impacts on victims or groups of victims, including spiritually, economically, educationally, and by gravely undermining their enjoyment of a range of human rights, including cultural rights'. Hence the Office of the Prosecutor, within its mandate, 'aims to identify these links during its analysis, investigations and prosecutions, and the impact – including any intergenerational impact – thereof'.<sup>37</sup>

Arguably, the recognition of the protection of cultural heritage in armed conflict as a human rights issue provides the basis for the actions to achieve the full realisation of human rights attached to heritage in conflict-ridden territories. While the realisation of human rights, particularly economic, social and cultural rights essentially has a territorial scope, i.e. on the territory of states/parties to the given treaty. Indeed, the obligation to secure or ensure human rights is limited to those territories that are under the state's effective control. Yet 'the state obligation to respect human rights is not limited territorially',<sup>38</sup> in other words the extraterritorial aspect of realising cultural human rights, particularly those attached to cultural heritage, are to be considered.<sup>39</sup> In this regard, the UN Committee on Economic, Social and Cultural Rights (CESCR), already in 1990, while referring to the obligations of the States Parties to International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>40</sup> under Article 2(1) of this treaty, noted that it is the obligation of every State Party to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised by the ICESCR by

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36 UNESCO, "Dialogue with the Special Rapporteur in the Field of Cultural Rights, Ms Alexandra Xanthaki, on the Role of Cultural Rights for the Protection of Cultural Property in the Event of Armed Conflict (Proposed by Austria)" (2022), UNESCO Doc. C54/22/17.COM/6.

37 ICC OTP, "Policy on Cultural Heritage" (June 2021), para. 26.

38 Milanovic, *Extraterritorial Application of Human Rights Treaties*, 263.

39 Further read Coomans, "The Extraterritorial Scope of the International Covenant on Economic, Social and Cultural Rights".

40 International Covenant on Economic, Social and Cultural Rights, *opened for signature* 16 December 1966, 993 UNTS 3.

all appropriate means.<sup>41</sup> Today, it becomes gradually understood that such assistance and cooperation may include the support for integrating ‘cultural heritage into emergency humanitarian programmes’ as well as to support recovery and reconciliation agendas.<sup>42</sup>

Last but not least, the protection of cultural heritage in armed conflict is increasingly more recognised as a matter of global peace and security.<sup>43</sup> In fact, cultural heritage has been incrementally integrated within the frameworks of humanitarian, peacekeeping, security, and human rights policies and operations. This trend has been driven and promoted by UNESCO as a new international agenda: ‘The role of culture for resilience, peace and security’<sup>44</sup> has developed since at least 2013, that is, the UN-UNESCO partnership in Mali, provided by the UNSC Resolution 2100.<sup>45</sup> In this regard, the engagement of the UNSC is crucial as since the Iraqi occupation of Kuwait<sup>46</sup> it has gradually undertaken steps to protect cultural heritage in armed conflicts as a matter of international peace and security under Chapter VII of the UN Charter.<sup>47</sup> Significantly, in its Resolution 2347 (2017), the UNSC, undertaken in the context of wars in Iraq and Syria, dedicated exclusively to the trafficking (and destruction) of cultural heritage in situations of armed conflict, addresses the common interest and duty of the entire international community to cooperate for its protection in the broader context of an armed conflict.<sup>48</sup> Although, due to obvious reasons, the UNSC is not able to adopt a similar resolution in respect of Russia’s war of aggression, the duty to protect cultural heritage in an armed conflict shall also apply to Ukraine’s endangered heritage.

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41 CESCR, General Comment No. 3: The Nature of States Parties Obligations (art. 2, para 1), 14 December 1990, E/1991/23; 1(1) IHRR 6 (1999).

42 UNESCO, “Warsaw Recommendation on Recovery and Reconstruction of Cultural Heritage” (8 May 2018), para. 4.

43 Hausler and Jakubowski, “Combating Illicit Trade in Cultural Objects”, 179-83.

44 UNESCO, “The role of Culture for Resilience, Peace and Security: a New International Agenda Promoted by UNESCO”.

45 UNSC, Res. 2100 (25 April 2013), UN Doc. S/RES/2100.

46 UNSC, Res. 686 (2 March 1991), UN Doc. S/RES/686.

47 In particular, see UNSC, Res. 1483 (22 May 2003), UN Doc. S/RES/1483; UNSC, Res. 2199 (12 February 2015), UN Doc. S/RES/2199; for doctrinal overview, see Frigo, “Approaches Taken by the Security Council to the Global Protection of Cultural Heritage”; Hausler, “Cultural Heritage and the Security Council”.

48 UNSC, Res. 2347, “Maintenance of International Peace and Security” (24 March 2017), UN Doc. S/RES/2347.

#### **4. EU Law and Policy and the Safeguarding Ukraine's Cultural Heritage**

Since February 2022, a number of initiatives have emerged to support Ukraine in protecting cultural heritage threatened by Russia's aggression. These have included actions by individual states, international governmental and non-governmental organisations, other entities and individuals. They have largely referred to the documentation and inventory of damage and looting, as well as to physical and financial support for securing heritage sites against Russian attacks.

From organisational initiatives, the role of the World Heritage Committee is to be recalled. In 2023, this international body, included three out of seven of Ukraine's sites, inscribed on the World Heritage List, on the List of World Heritage in Danger (the Historic Centre of Odesa in January 2023, and Saint-Sophia Cathedral and Related Monastic Buildings, Kyiv-Pechersk Lavra in Kyiv and Ensemble of the Historic Centre of L'viv In February 2023). Tellingly, in the occasion of the inscription of the Historic Centre of Odesa, Audrey Azoulay, UNESCO Director-General, explained, '[w]hile the war continues, this inscription embodies our collective determination to ensure that this city, which has always surmounted global upheavals, is preserved from further destruction'.<sup>49</sup>

As already highlighted, the EU and its Member States has been very active in supporting Ukraine's efforts to safeguard cultural heritage from the threats caused by Russia's aggression. However, what is the basis for the EU's action in this regard? How do all the aforementioned international law cultural heritage obligations relate to the EU and its legal system? In answering this question, it is necessary, first of all, to outline the place and meaning of cultural heritage in EU law and policy, particularly in its external dimension.<sup>50</sup>

##### **4.1. EU Law and Cultural Heritage**

Generally speaking, the stream of the regional, European integration project that gave rise to the EU has long remained rather silent in respect of cultural

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<sup>49</sup> UNESCO, "Odesa Inscribed on UNESCO's World Heritage List in the face of threats of destruction" (25 January 2023).

<sup>50</sup> For an overview, see Jakubowski, Hausler, and Fiorentini, *Cultural Heritage in the European Union*.

heritage. In fact, EU primary law only laconically mentions heritage or as a matter of common ‘inheritance’, ‘Europe’s cultural heritage’,<sup>51</sup> and cultural resource fostering the cooperation within the EU and externally.<sup>52</sup> Moreover, the powers conferred to the EU are extremely limited. In principle, the EU’s cultural and heritage mandate is confined to the third type of competence indicated in the Treaties,<sup>53</sup> i.e. the EU may coordinate, support and supplement the policies and measures of its Member States in cultural matters (including cultural heritage), without any power of legislative harmonisation over them. On the other hand, cultural and cultural heritage considerations are today integrated within various EU policies; notably the internal market, customs union, common commercial policy, agriculture, environment, foreign policy and security, and employed for a number of gains, including both political and socio-economic ones (sometimes labelled as an ‘instrumental use of heritage’).<sup>54</sup> In this respect ‘cultural heritage’ is understood as consisting of ‘the resources inherited from the past in all forms and aspects – tangible, intangible and digital (born digital and digitised)’.<sup>55</sup> In other words, the EU’s cultural heritage action is not confined to the Union’s cultural policy and its limited competences therein, but it expands across a vast array of regulatory frameworks, as clearly emphasised by the Council on several occasions.<sup>56</sup>

The EU is obliged to contribute ‘to strict observance and the development of international law, including respect for the principles of the United Nations Charter’ (Article 3(5) TEU). Undoubtedly, this duty also concerns the protection of cultural heritage in armed conflict. Moreover, the EU shall “promote an international system based on stronger multilateral cooperation and good global governance” (Article 21(2)(h) TEU), which also embraces the duty to respect cultural heritage, within the EU and beyond. Indeed, the promotion and application of international humanitarian law is central to the EU’s external action.<sup>57</sup> Accordingly, the Updated European Union

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51 Treaty on the European Union (TEU), consolidated version [2016] OJ C202/13, preamble, 2nd recital, and Article 3(3).

52 Treaty on the Functioning of the European Union (TFEU), consolidated version [2016] OJ C202/47, Article 167.

53 Art. 167(5) and article 6(c) TFEU.

54 Psychogiopoulou, “Cultural Heritage in European Union”, 197.

55 EU, Council Conclusions on Cultural Heritage as a Strategic Resource for a Sustainable Europe (21 May 2014) [2014] OJ C183/36, para. 2.

56 In particular, see EU, Council Conclusions on the Need to Bring Cultural Heritage to the Fore Across Policies in the EU (23 May 2018), [2018] OJ C196/20.

57 EU, Communication from the Commission to the European Parliament and the Council: on the EU’s Humanitarian Action: New Challenges, Same Principles, COM(2021)110, Brussels, 10

Guidelines on promoting compliance with international humanitarian law (IHL) are designed to set out operational tools for the EU and its institutions and bodies to promote such compliance, including the obligations under the 1954 Hague Convention and its Protocols.<sup>58</sup> Indeed, prior to Russia's aggression against Ukraine, the EU had already played the role of monitoring the observance of international humanitarian law rules with regard to cultural heritage under threat in various armed conflicts.<sup>59</sup>

On the policy level, the Council, in its conclusions on the EU approach to cultural heritage in conflicts and crises, fully recognised 'the role of cultural heritage as an important vehicle for peace, democracy and sustainable development by fostering tolerance, mutual understanding, reconciliation, inter-cultural and inter-faith dialogue, mitigating social tensions and preventing renewed escalation into violent conflict'.<sup>60</sup> It emphasised that the protection of cultural heritage is 'fundamental to preventing violent extremism, to fighting against disinformation and to generating positive dialogue and inclusion', especially in relation to peacebuilding.<sup>61</sup> It also recognised that 'cultural heritage can be instrumentalised as a trigger for and a target in conflicts and crises and can be subject to disinformation or information manipulation',<sup>62</sup> whilst undermining social inclusion and the realisation of human rights, and contributing to the development of organised crime. Hence the Council confirmed the EU's commitment to protect and safeguard cultural heritage in full respect for human rights and fundamental freedoms. It also stressed the EU's commitment to upholding and strengthening the rules-based international order, including international humanitarian law rules, 'with the United Nations (UN) at its core'.<sup>63</sup>

In this respect, the European External Action Service (EEAS) held that a 'driving force of EU's engagement is promoting the respect for international law, principles and norms to protect cultural heritage', particularly those

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March 2021.

58 EU, Updated European Union Guidelines on Promoting Compliance with International Humanitarian Law (IHL) [2009] OJ C303/12.

59 For instance, see Pietz and Schmidtke, "EU CSDP Missions and the Protection of Cultural Heritage".

60 EU, Council Conclusions on EU Approach to Cultural Heritage in Conflicts and Crises, 9837/21, Brussels, 21 June 2021, para. 2.

61 EU, Council Conclusions on EU Approach to Cultural Heritage in Conflicts and Crises, paras. 2-3; Hausler, "The EU Approach to Cultural Heritage in Conflict and Crisis", 193.

62 EU, Council Conclusions on EU Approach to Cultural Heritage in Conflicts and Crises, para. 2.

63 Ibidem, para. 8.

enshrined in international humanitarian law rules that consider ‘any deliberate destruction of cultural heritage as an unlawful attack on the past and present of humanity’.<sup>64</sup> Therefore, the EU should ‘promote the respect of this international legal framework when engaging with third States’.<sup>65</sup> It should also ‘engage on cultural heritage in its external action in conflicts and crises, elaborating on principles, operational and strategic approaches in line with the humanitarian-peace-development nexus’.<sup>66</sup> It also highlighted that the protection of cultural heritage ‘should be seen as a humanitarian responsibility for which measures to support compliance with International Humanitarian Law and related instruments should be used when deliberate destruction is imminent or occurs’.<sup>67</sup> The EU should also consider, ‘in due circumstances and in accordance with the international legal framework and best practices, to support the establishments of *safe havens*’.<sup>68</sup>

In this latter regard, it needs to be stressed that the Union’s secondary legislation enshrines the UNSC’s objectives to combat trafficking in cultural objects and to safeguard such materials as a matter of realising human rights. Alongside the legislation to protect Iraqi and Syrian cultural heritage, adopted in line with the obligations set up by the UNSC,<sup>69</sup> the new important regime has been established under Regulation (EU) 2019/880 on the introduction and the import of cultural goods (Regulation 2019/880).<sup>70</sup> This states that ‘[c]ultural heritage constitutes one of the basic elements of civilisation having, inter alia, symbolic value, and forming part of the cultural memory of humankind’, enriching ‘the cultural life of all peoples and unites people through shared memory, knowledge and development of civilisation’.<sup>71</sup> While adopted in the context of the 1970 UNESCO Convention and the UNIDROIT

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64 EU EEAS, Concept on Cultural heritage in Conflicts and Crises. A Component for Peace and Security in European Union’s external action, 9962/21, Brussels, 18 June 2021, 8.

65 Ibidem, 9.

66 Ibidem, 3; also EU, Council Conclusions on Operationalising the Humanitarian-Development Nexus, 9417/17, Brussels, 19 May 2017.

67 EU, EEAS, Concept on Cultural Heritage in Conflicts and Crises, 6.

68 Ibidem, 6.

69 EU, Regulation (EU) No. 1210/2003 of the Council of 7 July 2003 Concerning Certain Specific Restrictions on Economic and Financial Relations with Iraq and Repealing Regulation (EC) No. 2465/96, [2003] OJ L169/6; and EU, Regulation (EU) No. 1332/2013 of the Council of 13 December 2013 Amending Regulation (EU) No. 36/2012 Concerning Restrictive Measures in View of the Situation in Syria, [2013] OJ L335/3.

70 EU, Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019 on the Introduction and the Import of Cultural Goods [2019] OJ L151/1.

71 EU, Regulation (EU) 2019/880, preamble, 3rd recital.

Convention on Stolen and Illegally Exported Cultural Objects (1995 UNIDROIT Convention),<sup>72</sup> it also explicitly refers to the human dimension of protecting cultural heritage and reaffirms that '[t]he exploitation of peoples and territories can lead to the illicit trade in cultural goods, in particular when such illicit trade originates from a context of armed conflict'.<sup>73</sup> Such trade, 'in many cases contributes to forceful cultural homogenisation or forceful loss of cultural identity, whilst the pillage of cultural goods leads, inter alia, to the disintegration of culture'.<sup>74</sup> Hence, '[t]he Union should accordingly prohibit the introduction into the customs territory of the Union of cultural goods unlawfully exported from third countries, with particular emphasis on cultural goods from third countries affected by armed conflict'.<sup>75</sup>

In this respect, Regulation 2019/880 sets out the conditions for the introduction of cultural goods, and the conditions and procedures for the import of cultural goods, while providing for a system of import licences for the most endangered cultural goods and importer statements for other categories of cultural goods. While this system is not fully operational, it constitutes an important step to safeguard humanity's cultural heritage and prevent the illicit trade in cultural goods, in particular where such trade is linked to armed conflict and/or could contribute to terrorist financing. In fact, the fight against illicit trade in cultural objects is now covered by the EU Security Union Strategy,<sup>76</sup> and the EU Strategy to tackle organised Crime for 2021-2025 (EU Strategy).<sup>77</sup> This is aimed at raising awareness, improving information exchange and cooperation (including with non-EU countries), and strengthening capacity building and expertise. In this regard, EU Member States are also bound to introduce measures imposing on traders, or intermediaries in art trade certain obligations under the EU anti-money laundering framework.<sup>78</sup>

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72 UNIDROIT, Convention on Stolen and Illegally Exported Cultural Objects, *opened for signature* June 24, 1995, 2421 UNTS 457.

73 EU, Regulation (EU) 2019/880, preamble, 2nd recital.

74 Ibidem, preamble, 3rd recital.

75 Ibidem.

76 EU, Communication from the Commission to the European Parliament, The European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Security Union Strategy, COM(2020) 605, Brussels, 24 July 2020.

77 EU, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy to Tackle Organised Crime 2021-2025, COM(2021) 170, Brussels, 14 April 2021.

78 EU, Directive (EU) 2018/843 of the European Parliament of 30 May 2018 Amending Directive (EU) 2015/849 on the Prevention of the Use of the Financial System for the Purposes of Money

One of the key elements of the EU Strategy was the adoption of the 2022 Action Plan. This addresses four strategic objectives: (I) improving prevention and detection of crimes by market participants and cultural heritage institutions; (II) strengthening law enforcement and judicial capabilities; (III) boosting international cooperation, and (IV) gaining the support of other key stakeholders to protect cultural goods from crime. It thus provides for the coordination of actions across different EU policies, since cultural goods trafficking is not only a threat to ‘the safety of EU citizens, but can also cause irreparable damage to our cultural heritage and therefore, our common identity’.<sup>79</sup> Yet it does not include concrete steps or actions to be undertaken at the EU level, as these need to be performed by Member States, whose actions are to be encouraged, supported and coordinated by the EU. Significantly, the fight against trafficking of cultural objects has recently been included in the strategic guidelines of the recently released revised 2023 Civilian Common Security and Defence Policy (CSDP) Compact,<sup>80</sup> strengthening the civilian side of the Common Security and Defence Policy.

As for prosecuting crimes against cultural heritage committed in armed conflicts, EU Member States can prosecute the violations of international humanitarian law rules on the respect of cultural property as well as offences relating to the illicit trade, money laundering and organised crime. As for the EU’s engagement, the 2022 Action Plan advocates that ‘[t]he European Public Prosecutor’s Office (EPPO) could investigate and prosecute specific cultural goods trafficking related offenses falling within its competence’.<sup>81</sup> Importantly, the Council of the EU, based on Article 29 TEU, can ‘adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature’. These may include restrictive measures against states, legal and natural persons responsible for grave violations of international law.

Finally, it is also to be emphasised that a number of EU Member States and Ukraine are bound by many of the aforementioned international treaties and they are parties to multilateral and bilateral agreements on

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Laundering or Terrorist Financing, and Amending Directives 2009/138/EC and 2013/36/EU, [2018] OJ L156/43.

79 EU, 2022 Action Plan, 16.

80 EU, Conclusions of the Council and of the Representatives of the Governments of the Member States, Meeting within the Council, on the Establishment of a Civilian CSDP Compact, 9588/23, 22 May 2023.

81 EU, 2022 Action Plan, 11-12.



cultural cooperation and/or neighbourly relations. Furthermore, since 23 June 2022, Ukraine enjoys EU candidate status.<sup>82</sup> Under the Association Agreement between the EU and its Member States and Ukraine, its Parties “shall closely cooperate in relevant international fora, including United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the Council of Europe (CoE), inter alia, in order to develop cultural diversity, and to preserve and valorise cultural and historical heritage” (Article 439).<sup>83</sup> Moreover, the ‘[c]ooperation at bilateral, regional and European levels would be based (...) on the importance of cultural heritage’ (Article 400(1) (b)). Arguably, these framework commitments support the legal basis for EU action with regard to Ukraine’s cultural heritage from the threats of Russia’s war of aggression.

#### 4.2. The EU’s Current Practice in Safeguarding Ukraine’s Cultural Heritage

To date, the obligations stemming from the aforementioned sources, including treaty law, EU legislation and UN sanctions, have to a certain extent been implemented by the EU and its Member States, both directly and indirectly. These activities have been undertaken in diverse areas of EU policy, and in different ways.<sup>84</sup>

Generally speaking, they mainly concerned security measures on the territory of Ukraine, monitoring the scale of destruction and other threats to cultural heritage, and offering measures to support the Ukrainian scientific and cultural community in the EU. Indeed, it should be pointed out that for the time being, the Ukrainian authorities do not envisage the evacuation of their collections beyond national borders for custody in extraterritorial safe havens, while the police, boarding guards and customs services of Ukraine and EU Member States are working to control unauthorised export and trade in cultural goods across borders. With regard to securing tangible cultural heritage against threats of military operations (particularly Russian air raids) a number of actions have been undertaken within the following

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82 EU, European Council Meeting (23 and 24 June 2022) – Conclusions, EUCO 24/22, Brussels, 24 June 2022, para. 11.

83 Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the One Part, and Ukraine, of the Other Part, *done* March 21, 2014, [2014] OJ L161/3 (as amended).

84 For an overview, see Campfens et al., *Research for CULT Committee*, 58-64.

diverse frameworks: EU Member States, its institutions<sup>85</sup> and through support granted to civic, non-governmental initiatives; by the Commission and EEAS in cooperation with Member States, international governmental organisations (particularly UNESCO), and non-governmental organisations, such as ICOM and the International Alliance for the Protection of Heritage in Conflict Areas (ALIPH); by governmental and non-governmental organisations themselves. Another area of support concerns the training of heritage conservation experts and law enforcement personnel. The EU also provides funding for documenting damage and destruction of tangible cultural heritage (including digitalised means) as well as threats to intangible heritage. Funding has also been provided by the EU and its Member States for supporting Ukrainian artists, cultural professionals and researchers.

Importantly, the EU's sanctions against Russia have also considered persons engaged in plundering of cultural objects in Ukraine's occupied territories. The current EU restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine now apply to almost 1,800 individuals and entities. The list of individuals includes, among others, Russia's appointed museum officers in Kherson, Mariupol and Simferopol.<sup>86</sup> With new evidence on crimes committed, the list will probably be extended.

## 5. Final Remarks and Outlook

Russia's war of aggression against Ukraine poses an unprecedented challenge to the EU and international community. On the European continent, cultural heritage has not been the target of such widespread attacks since the wars in the former Yugoslavia. Furthermore, the armed conflict in Ukraine demonstrates characteristics comparable only to the organised destruction and plundering of cultural heritage comparable only to the criminal Nazi policy of the Third Reich. Russia's actions cannot, however, be assessed today only in terms of individual accountability of those responsible for international law crimes. Indeed, non-parties to the war unleashed by

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85 In this regard, remarkable actions have been undertaken by Poland; see Zalasńska and Brodowska, *Saving Ukraine's culture*, 50-71.

86 EU, Consolidated text of the Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (15 September 2023), ANNEX I.

Russia have profoundly been unaffected by its conduct that infringes the core interests of the international community as a whole: the maintenance of peace and security, the protection fundamental human rights and cultural heritage of all humankind. It is therefore incumbent on the international community, its various actors, including the EU, to take action to stop these violations. This also concerns the safeguarding of Ukraine's cultural heritage which cannot just be confined to certain contractual duties or perceived as more policy objectives. Instead, the duty to respect and protect arise from the very core of the present-day global legal order. However, what about its effective implementation?

First of all, much effort should be devoted to the coordination of international actions with Ukraine's authorities to protect cultural heritage *in situ*. Considering the multiple legal foundations of such action, the role of the EU – in cooperation with the CoE and UNESCO – is crucial. Although many joint actions have been taken by the EU and its Member States, they are not yet sufficiently streamlined. Instead, they still seem to be deeply fragmented. This requires greater integration of the activities of both EU institutions and agencies, Member States and civil society, in line with the EU's key policies on cultural heritage management.<sup>87</sup> Such a new approach will be crucial in the context of the post-war reconstruction of Ukraine and its cultural life, taking into account the cultural and ethnic diversity of the country and its society.

The second area considers the effective implementation of international law obligations to curb trafficking in cultural materials looted from Ukraine's territory. As recently noted, 'looted cultural objects from Ukraine – home to vast archaeological sites – will probably surface on the EU-market in the near future, or circulate already'.<sup>88</sup> Indeed, the EU, its art market, museums and galleries are a natural destination for cultural objects, stolen and illicitly excavated from the occupied territories. In this regard, there is an increasing 'call for placing more attention on provenance research and the traceability of cultural objects, and for guidance and procedures to clarify norms and standards'.<sup>89</sup> In the EU, these goals could be achieved through different means, particularly through the establishment of a new agency conducting clearance procedures to address the problems regarding cultural objects without a clear provenance within the system of Regulation

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87 Campfens et al., *Research for CULT Committee*, 69.

88 Campfens, *Study for JURI Committee*, 12.

89 *Ibidem*, 48.

2019/880 that will be fully operative in 2025.<sup>90</sup> It should also be stressed that diligent, mandatory checks should also concern museum exchange to avoid introducing looted cultural objects through non-commercial cultural exchanges.

Next, the impunity of individual perpetrators must be addressed. This should apply both to those who have directly committed crimes in the belligerently occupied territories, particularly in Ukraine, but also to those who market looted objects or otherwise benefit from those crimes. In this regard, international cooperation is crucial, both in terms of collecting evidence and prosecuting individual perpetrators. In addition, individual sanctions against concrete individuals in Russia's political and administrative apparatus should also be implemented, without a politically or nationally motivated bias. Notably, official EU sanctions so far do not consider officers from key Russian institutions for whom there is evidence as to their involvement in crimes against Ukraine's cultural heritage. On the other hand, Member States' actions often collectively target individual artists and academics from Russian institutions. Therefore, all actions of the EU and its Member States should be guided by fundamental principles of human rights law, in particular the principle of non-discrimination.

Finally, there should be an increased focus on the post-conflict recovery and reconstruction of cultural heritage. This applies to both the memorialisation processes and the provision of adequate institutional and financial support to facilitate the peace-making process and to reduce the risk of further conflicts breaking out. The support and inclusion of local communities, and civil society organisations in the decision-making processes should already be undertaken during the conflict, and not only after it has ended. In this regard, it is recommended that non-parties, in international cooperation, provide technical and expert support to the greatest extent possible.

### Bibliography

1. Akinsha, Konstantin (2023). "Scythian Gold Is at the Heart of Russia's Identity War." *The Art Newspaper* [online edn.], 19 January 2023.
2. Antonopoulos, Constantine. *Non-Participation in Armed Conflict. Continuity and Modern Challenges to the Law of Neutrality*. Cambridge: Cambridge University Press, 2022.

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90 Ibidem, 50

3. Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, *done* 21 March 2014, [2014] OJ L161/3 (as amended).
4. Blake, Janet. *International Cultural Heritage Law*. Oxford: Oxford University Press, 2015.
5. Bushard, Brian. "These are Some of the Most Famous Ukrainian Works of Art Looted by Russia." *Forbes* [online edn.], 14 January 2023.
6. Campbell, Matthew. "Russia's Art Raids in Ukraine Are the Biggest Treasure Loots since Nazis." *The Times* [online edn.], 5 February 2023.
7. Campfens, Evelien. *Study for JURI Committee – Cross-border claims to looted art*. European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs, Brussels, 2023.
8. Campfens, Evelien, Andrzej Jakubowski, Kristin Hausler, and Elke Selter. *Research for Cult Committee – Protecting Cultural Heritage from Armed Conflicts in Ukraine and Beyond*. European Parliament, Policy Department for Structural and Cohesion Policies, Brussels, 2023.
9. CESCR, General Comment No. 3: The nature of States parties obligations (Art. 2, para 1), 14 December 1990, E/1991/23; 1(1) IHRR 6 (1999).
10. Charter of the United Nations, *opened for signature* June 26, 1945, 1 UNTS XVI, as amended.
11. CoE, Parliamentary Assembly, "Cultural heritage in crisis and post-crisis situations", Resolution 2057 (2015), <<https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=21784&lang=en>> accessed 20 October 2023.
12. Convention Concerning the Protection of the World Cultural and Natural Heritage, *opened for signature* 16 November 1972, 1037 UNTS 151.
13. Convention for the Protection of Cultural Property in the Event of Armed Conflict, *opened for signature* 14 May 1954, 249 UNTS 240.
14. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, *opened for signature* 14 November 1970, 823 UNTS 231.
15. Coomans, Fons. "The Extraterritorial Scope of the International Covenant on Economic, Social and Cultural Rights in the Work of the United Nations Committee on Economic, Social and Cultural Rights." *Human Rights Law Review*, Vol. 11, No. 1 (2011): 1-35.
16. Declaration on the Intentional Destruction of Cultural Heritage, *adopted* 17 October 2003, UNESCO Doc. 32 C/Resolutions Res 33.
17. Dixon, Robyn. "Russia Sending Teachers to Ukraine to Control What Students Learn." *The Washington Post* [online edn.], 18 July 2022.
18. EU EEAS, Concept on Cultural heritage in conflicts and crises. A component for peace and security in European Union's external action, 9962/21, Brussels, 18 June 2021.
19. EU, Communication from the Commission to the European Parliament and the Council: on the EU's humanitarian action: new challenges, same principles, COM(2021)110, Brussels, 10 March 2021.
20. EU, Communication from the Commission to the European Parliament, The European Council, the Council, the European Economic and Social Committee

- and the Committee of the Regions on the EU Security Union Strategy, COM(2020) 605, Brussels, 24 July 2020.
21. EU, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy to Tackle Organised Crime 2021-2025, COM(2021) 170, Brussels, 14 April 2021.
  22. EU, Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the establishment of a Civilian CSDP Compact, 9588/23, 22 May 2023.
  23. EU, Consolidated text of the Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine (15 September 2023), ANNEX I, <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0269-20230624&qid=1691093648547>> accessed 19 October 2023.
  24. EU, Council conclusions on cultural heritage as a strategic resource for a sustainable Europe (21 May 2014) [2014] OJ C183/36.
  25. EU, Council conclusions on EU approach to cultural heritage in conflicts and crises, 9837/21, Brussels, 21 June 2021.
  26. EU, Council Conclusions on operationalising the humanitarian-development nexus, 9417/17, Brussels, 19 May 2017.
  27. EU, Council conclusions on the need to bring cultural heritage to the fore across policies in the EU (23 May 2018), [2018] OJ C196/20.
  28. EU, Directive (EU) 2018/843 of the European Parliament of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, [2018] OJ L156/43.
  29. EU, European Council meeting (23 and 24 June 2022) – Conclusions, EUCO 24/22, Brussels, 24 June 2022.
  30. EU, Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019 on the introduction and the import of cultural goods [2019] OJ L151/1.
  31. EU, Regulation (EU) No. 1210/2003 of the Council of 7 July 2003 concerning certain specific restrictions on economic and financial relations with Iraq and repealing Regulation (EC) No. 2465/96, [2003] OJ L169/6.
  32. EU, Regulation (EU) No. 1332/2013 of the Council of 13 December 2013 amending Regulation (EU) No. 36/2012 concerning restrictive measures in view of the situation in Syria, [2013] OJ L335/3.
  33. EU, Updated European Union Guidelines on promoting compliance with international humanitarian law (IHL) [2009] OJ C303/12.
  34. Frigo, Manlio. “Approaches Taken by the Security Council to the Global Protection of Cultural Heritage: An Evolving Role in Preventing Unlawful Traffic of Cultural Property.” *Rivista di diritto internazionale*, Vol. 101, No. 4 (2018): 1164-81.
  35. Hausler, Kristin. “Cultural Heritage and the Security Council: Why Resolution 2347 Matters.” *Questions of International Law*, No. 48 (2018): 5-19.

36. Hausler, Kristin. "The EU Approach to Cultural Heritage in Conflict and Crisis: An Elephant in the Room?" *Santander Art and Culture Law Review*, Vol. 7, No. 2 (2021): 193-202.
37. Hausler, Kristin, Jakubowski, Andrzej. "Combating Illicit Trade in Cultural Objects to Defend Peace and Security". In *The Preservation of Art and Culture in Times of War*, edited by Claire Finkelstein, Derek Gillman and Frederik Rosén, 161-85. New York: Oxford University Press, 2022.
38. ICC OTP, "Policy on Cultural Heritage" (June 2021), para. 26, available at <<https://www.icc-cpi.int/itemsDocuments/20210614-otp-policy-cultural-heritage-eng.pdf>> accessed 20 October 2023.
39. ICJ, *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan)*, Provisional Measures, ICJ order of 7 December 2021, available at <<https://www.icj-cij.org/sites/default/files/case-related/180/180-20230706-ord-01-00-en.pdf>> accessed 20 October 2023.
40. International Covenant on Economic, Social and Cultural Rights, *opened for signature* December 16, 1966, 993 UNTS 3.
41. Jakubowski, Andrzej. "Black Sea Tomb Raiders and the Practice of Global Cultural Exchange: Revisiting the Ethics and Responsibility of Museums." *Art, Antiquity and Law*, Vol. 19, No. 1 (2014): 75-86.
42. Jakubowski, Andrzej. "International Protection of Cultural Heritage in Armed Conflict: Revisiting the Role of Safe Havens." *Indonesian Journal of International Law*, Vol. 16, No. 2 (2019): 169-90.
43. Jakubowski, Andrzej, Hausler, Kristin, Fiorentini, Francesca, eds. *Cultural Heritage in the European Union. A Critical Inquiry into Law and Policy*. Boston-Leiden: Brill, 2019.
44. Kwiecień, Roman. "The Aggression of the Russian Federation Against Ukraine: International Law and Power Politics or 'What Happens Now.'" *Polish Review of International and European Law*, Vol. 11, No. 1 (2022): 9-21.
45. Milanovic, Marko. *Extraterritorial Application of Human Rights Treaties: Law, Principles, and Policy*. Oxford: Oxford University Press, 2011.
46. Mullins, Charlotte. "Ukraine's Heritage Is under Direct Attack': Why Russia Is Looting the Country's Museums." *The Guardian* [online edn.], 27 May 2022.
47. Munawar, Nour A., Symonds, James. "Empires of Lies? The Political Uses of Cultural Heritage in War." *The Historic Environment: Policy & Practice*, <https://doi.org/10.1080/17567505.2023.2205193>.
48. O'Keefe, Roger. "Cultural Heritage and International Humanitarian Law". In *The Oxford Handbook of International Cultural Heritage Law*, edited by Francioni, Francesco, Vrdoljak, Ana Filipa, 43-74. Oxford: Oxford University Press, 2020.
49. Pietz, Tobias, Schmidtke, Maximilian. "EU CSDP Missions and the Protection of Cultural Heritage." *Istituto Affari Internazionali Commentaries*, No. 19/63 (2019).
50. Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, *opened for signature* May 14, 1954, 249 UNTS 358.
51. Psychogiopoulou, Evangelia. "Cultural Heritage in European Union Law and Policies." *Legal Issues of Economic Integration*, Vol. 45, No. 2 (2018): 177-98.

52. Rome Statute of the International Criminal Court, *opened for signature* July 17, 1998, 2187 UNTS 90.
53. Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, *opened for signature* March 26, 1999, 2253 UNTS 2.
54. Treaty on the European Union, consolidated version [2016] OJ C202/13.
55. Treaty on the Functioning of the European Union (TFEU), consolidated version [2016] OJ C202/47.
56. UNHRC, “Cultural Rights and the Protection of Cultural Heritage”, Resolution 37/17 (22 March 2018), UN Doc. A/HRC/RES/37/17.
57. UNHRC, “The Intentional Destruction of Cultural Heritage as a Violation of Human Rights”, Report by Karima Bennouna, Special Rapporteur in the Field of Cultural Rights (9 August 2016), UN Doc. A/71/317.
58. UNESCO World Conference on Cultural Policies and Sustainable Development – MONDIACULT 2022, Final Declaration, *signed* 30 September 2022, UNESCO Doc. MONDIACULT-2022/CPD/6.
59. UNESCO, “Damaged Cultural Sites in Ukraine Verified by UNESCO”, 19 October 2023, <<https://www.unesco.org/en/articles/damaged-cultural-sites-ukraine-verified-unesco>> accessed 20 October 2023.
60. UNESCO, “Dialogue with the Special Rapporteur in the Field of Cultural Rights, Ms Alexandra Xanthaki, on the Role of Cultural Rights for the Protection of Cultural Property in the Event of Armed Conflict (Proposed by Austria)” (2022), UNESCO Doc. C54/22/17.COM/6, <<https://unesdoc.unesco.org/ark:/48223/pf0000383702>> accessed 15 October 2023.
61. UNESCO, “Odesa Inscribed on UNESCO’s World Heritage List in the Face of Threats of Destruction” (25 January 2023), available at: <<https://www.unesco.org/en/articles/odesa-inscribed-unescos-world-heritage-list-face-threats-destruction>> accessed 20 October 2023.
62. UNESCO, “The Role of Culture for Resilience, Peace and Security: a New International Agenda Promoted by UNESCO”, available at <<https://en.unesco.org/The-role-of-culture-for-resilience-peace-and-security>> accessed 18 October 2023.
63. UNESCO, “Warsaw Recommendation on Recovery and Reconstruction of Cultural Heritage” (8 May 2018), para. 4, <<https://whc.unesco.org/document/168799>> accessed 19 October 2023.
64. UNESCO, General Conference, Res. 3.5 (13 November 1993), UNESCO Doc. 27 C/Resolutions + CORR.
65. UNIDROIT, Convention on Stolen and Illegally Exported Cultural Objects, *opened for signature* June 24, 1995, 2421 UNTS 457.
66. United Nations Convention against Transnational Organised Crime, *opened for signature* December 12, 2000, 2225 UNTS 209.
67. UNSC, Res. 1483 (22 May 2003), UN Doc. S/RES/1483.
68. UNSC, Res. 2100 (25 April 2013), UN Doc. S/RES/2100.
69. UNSC, Res. 2199 (12 February 2015), UN Doc. S/RES/2199.
70. UNSC, Res. 2347, “Maintenance of International Peace and Security” (24 March 2017), UN Doc. S/RES/2347.
71. UNSC, Res. 686 (2 March 1991), UN Doc. S/RES/686.



72. Vrdoljak, Ana Filipa, Francioni, Francesco. "Introduction". In *The Oxford Handbook of International Cultural Heritage Law*, edited by Francioni, Francesco and Vrdoljak, Ana Filipa, 1-10. Oxford: Oxford University Press, 2020.
73. Zalaszińska, Katarzyna, and Brodowska, Aleksandra. *Saving Ukraine's Culture. Polish Support Center for Culture I Ukraine. Activity Report February 2022 – December 2022*, Warsaw: National Institute of Cultural Heritage, 2023.
74. Zhang, Yue. "Customary International Law and the Rule against Taking Cultural Property as Spoils of War." *Chinese Journal of International Law*. Vol. 17, No. 4 (2018): 943-89.

