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Protection of
Cultural Property in
the Event of Armed Conflict

Extraordinary meeting

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**UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND
CULTURAL ORGANIZATION**

**SECOND PROTOCOL TO THE HAGUE CONVENTION OF 1954
FOR THE PROTECTION OF CULTURAL PROPERTY
IN THE EVENT OF ARMED CONFLICT**

**COMMITTEE FOR THE PROTECTION OF CULTURAL
PROPERTY IN THE EVENT OF ARMED CONFLICT**

SECOND EXTRAORDINARY MEETING

**Paris, UNESCO Headquarters
18 March 2022**

Item 5 of the provisional agenda:

**The granting of enhanced protection to cultural
properties in Ukraine**

Pursuant to Article 11(3) of the 1999 Second Protocol, this document presents information on the recommendations of the Blue Shield International and the Republic of Austria to grant enhanced protection to specific cultural properties in Ukraine.

The document also contains information on the system of enhanced protection established by Chapter 3 of the 1999 Second Protocol, as well as the procedural aspects of the granting of enhanced protection to cultural properties.

Draft Decision: 2 EXT.COM 5, see paragraph 17

Introduction

1. In accordance with Article 11(3) of the 1999 Second Protocol, the Blue Shield International and the Republic of Austria recommended, through the Secretariat, to the Committee for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter “Committee”) the granting of enhanced protection to specific cultural properties located in Ukraine.
2. The list of recommended cultural properties by the Blue Shield International and the Republic of Austria are contained in Annexes 1 and 2 of the present document.
3. It is to be noted that the request of the granting of enhanced protection to a cultural property is a prerogative of a State Party having jurisdiction or control over the cultural property. Thus, in conformity with Article 11(3) of the 1999 Second Protocol, the Committee may decide to invite Ukraine to request the inclusion of the recommended cultural properties on the International List of Cultural Property under Enhanced Protection.
4. To facilitate the debate of the Committee, the present document is divided into two parts. **The first part** aims to provide information on the system of enhanced protection established by Chapter 3 of the 1999 Second Protocol. **The second part** contains information on the procedural aspects of the granting of enhanced protection.
5. It should be stressed that the Secretariat has no mandate to provide “the official” interpretation of the Convention and/or its two Protocols; such prerogative lies with States Parties. Thus, nothing in this document shall be considered as official interpretation of the text of the Convention and/or its two Protocols.

I. Information on the system of enhanced protection established by Chapter 3 of the 1999 Second Protocol

6. The system of enhanced protection (hereinafter “enhanced protection”) is mechanism established under Chapter 3 of the 1999 Second Protocol to strengthen the protection of specifically designated cultural property, in times of peace and in the event of armed conflict. The enhanced protection is granted to cultural property by the Committee from the moment of its entry in the International List of Cultural Property under Enhanced Protection.
7. In the event of armed conflict, the strengthened protection to cultural property under enhanced protection is ensured through the higher level of immunity than other cultural property under general protection. The scope of this immunity in the event of armed conflict, as well as related provisions on criminal responsibility and jurisdiction in relation to the offences involving cultural property under enhanced protection are concisely described below.

(i) Immunity of cultural property under enhanced protection in the event of armed conflict

8. In this context, whereas cultural property may become a military objective by any one or more of its *nature, location, purpose* or *use*, cultural property under enhanced protection constitutes a military objective only by means of its *use*, which greatly improves its immunity in the event of armed conflict. Even in the circumstance of the use of the cultural property to support the military action, in accordance with Article 13 of the 1999 Second Protocol, cultural property under enhanced protection may only be the object of attack if:¹
 - (a) the attack is the only feasible mean of terminating such use of the property;
 - (b) all feasible precautions are taken in the choice of means and methods of attack, with a view to terminating such use and avoiding, or in any event minimising, damage to the cultural property; and

¹ See more in paragraphs 106-110 of the [Military Manual](#) on the Protection of Cultural Property, UNESCO, 2016

- (c) unless circumstances do not permit, due to requirements of immediate self-defense:
 - i. the attack is ordered at the highest operational level of command;
 - ii. effective advance warning is issued to the opposing forces requiring the termination of the use; and
 - iii. Reasonable time is given to the opposing forces to redress the situation.

(ii) Related provisions on criminal responsibility and jurisdiction in relation to offences involving cultural property under enhanced protection

9. It is to be noted that, pursuant to Article 15 of the 1999 Second Protocol, *making cultural property under enhanced protection the object of attack or using cultural property under enhanced protection or its immediate surroundings in support of military action* is classified as serious violations of the above-mentioned treaty. Each State Party to the 1999 Second Protocol, without prejudice to paragraph 2 of Article 16 of the treaty, shall take the necessary legislative measures to establish its jurisdiction over these offences:
 - (a) when such an offence is committed in the territory of that State;
 - (b) when the alleged offender is a national of that State;
 - (c) when the alleged offender is present in its territory.
10. The State Party in whose territory the alleged offender of an offence against cultural property under enhanced protection² is found to be present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities, for the purpose of prosecution, through proceedings in accordance with its domestic law or with, if applicable, the relevant rules of international law.
11. The Article 18 of the 1999 Second Protocol also includes special provisions related to the extradition of alleged offenders of offences against cultural property under enhanced protection.

II. Procedural aspects of the granting of enhanced protection

12. The granting of enhanced protection to cultural property is subject to the fulfilment of three conditions set forth in Article 10 of the 1999 Second Protocol, namely:
 - (a) Cultural property must be a cultural heritage of the greatest importance for humanity;
 - (b) Cultural property must be protected by adequate domestic legal and administrative measures recognising its exceptional cultural and historic value and ensuring the highest level of protection;
 - (c) Cultural property must not be used for military purposes or to shield military sites and a declaration must be made by the Party, which has control over this property, confirming that it will not be so used.
13. It is the responsibility of the requesting State Party to provide necessary information related to the above-mentioned conditions.
14. In accordance with Article 11(9), upon the outbreak of hostilities, a Party to the conflict may request, on an emergency basis, enhanced protection of cultural property under its jurisdiction or control. In line with paragraph 42 of the Guidelines, the cultural property concerned must not be used for military purposes or to shield military sites. The Party which has control over the cultural property has to make a declaration confirming that the cultural property will not be used for military purposes or to shield military sites.

² The phrase “*an offence against cultural property under enhanced protection*” means acts specified under subparagraphs 1 (a) and (b) of the Article 15 of the 1999 Second Protocol.

15. The Committee shall transmit this request immediately to all Parties to the conflict. In such cases the Committee will consider representations from the Parties concerned on an expedited basis. The decision to grant provisional enhanced protection shall be taken as soon as possible.
16. In line with paragraph 77 of the [Guidelines](#) for the Implementation of the 1999 Second Protocol, provisional enhanced protection may be granted by the Committee pending the outcome of the regular procedure for the granting of enhanced protection, provided that the provisions of Article 10 sub-paragraphs (a) and (c) are met.
17. In the light of the above, the Committee may wish to adopt the following decision:

DRAFT DECISION 2 EXT.COM 5

The Committee,

1. Having examined Document C54/22/2.EXT.COM/5,
2. Recalling Article 11(3) of the 1999 Second Protocol, which entitles the States Parties, the Blue Shield International and other nongovernmental organizations with relevant expertise to recommend cultural properties for the inclusion on the International List of Cultural Property in the Event of Armed Conflict,
3. Thanks the Republic of Austria and the Blue Shield International for recommending cultural properties for the inclusion on the International List of Cultural Property in the Event of Armed Conflict, and invites Ukraine to request enhanced protection for the recommended properties;
4. Requests the Secretariat to provide all necessary assistance to the relevant authorities of Ukraine in preparation and submission of requests for the granting of enhanced protection.

Annex 1

Cultural properties recommended by the Blue Shield International ³

1.0 Cultural sites on the World Heritage List

- 1) [Kyiv: Saint-Sophia Cathedral and Related Monastic Buildings, Kyiv-Pechersk Lavra](#) (1990) (site with three components – each component should be considered separately)
- 2) [L'viv – the Ensemble of the Historic Centre](#) (1998)
- 3) [Residence of Bukovinian and Dalmatian Metropolitans](#) (2011)
- 4) [Struve Geodetic Arc](#) (2005) (transnational site – only the components situated in Ukraine could be proposed – in Ukraine 4 components – each component should be considered separately)
- 5) [Wooden Tserkvas of the Carpathian Region in Poland and Ukraine](#) (2013) (transboundary site – only the components situated in Ukraine could be proposed – in Ukraine 8 components – each component should be considered separately)

2.0 Cultural sites on Ukraine's Tentative List for World Heritage nomination

- 1) [Historic Centre of Tchernigov, 9th -13th centuries](#) (1989)
- 2) [Cultural Landscape of Canyon in Kamenets-Podilsk](#) (1989) (only cultural component(s) are proposed)
- 3) [Tarass Shevchenko Tomb and State Historical and Natural Museum – Reserve](#) (1989)
- 4) [Dendrological Park "Sofijivka" \(2000\) \(mixed cultural and natural site - only cultural component\(s\) are proposed\)](#)
- 5) [Archaeological Site "Stone Tomb"](#) (2006)
- 6) [Mykolayiv Astronomical Observatory](#) (2007)
- 7) [Astronomical Observatories of Ukraine \(2008\) \(serial site with 4 components - each component should be considered separately - one component is situated in Crimea and may not be possible to action\)](#)
- 8) [Historic Center of the Port City of Odessa](#) (2009)
- 9) [Derzhprom \(the State Industry Building\)](#) (2017)

³ The recommendations were submitted by the Blue Shield International to the Committee, through Secretariat, on 3 March 2022.

Annex 2

Cultural properties recommended by the Republic of Austria ⁴

A comprehensive list of Jewish cultural property, in particular collections of Judaica and Hebraica in Ukraine, has been drawn up by Austrian experts in this fields. This list contains a compilation of:

1. Jewish tangible heritage in Ukraine
2. Memorial sites for Jewish victims of Nazi terror in Ukraine
3. Libraries and museums with Jewish records, manuscripts, artefacts, etc. in Ukraine
4. List of synagogues in Ukraine
5. List of Jewish cemeteries in Ukraine.

On the basis of this list, the following cultural property is recommended, as a priority, for the inscription on the International List of Cultural Property under Enhanced Protection on an emergency basis:

The Vernadsky National Library of Ukraine

The Vernadsky National Library of Ukraine, is the main academic library and main scientific information centre in Ukraine, one of the world's largest national libraries with one of the largest Judaica collection in Europe.

The compilation of Jewish heritage in Ukraine can be accessed through the following link:

https://en.unesco.org/sites/default/files/recommendations_by_austria_-_ukraine.pdf

⁴ The recommendations were submitted to the Committee, through the Secretariat, on 10 March 2022.