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ELEVENTH MEETING OF THE COMMITTEE FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

UNESCO Headquarters, Paris
8 – 9 December 2016

FINAL REPORT

I. Opening of the meeting

1. The 11th meeting of the Committee for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter "the Committee") established by the 1999 Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (hereinafter "the Second Protocol"), was held at UNESCO Headquarters on 8 and 9 December 2016. The 12 Member States of the Committee (Argentina, Armenia, Azerbaijan, Belgium, Cambodia, Cyprus, Egypt, Georgia, Greece, Mali, Morocco and the Czech Republic) participated in the meeting. In addition, the following were present as observers: 21 States Parties to the Second Protocol not members of the Committee (Austria, Canada, Chile, Colombia, Costa Rica, Croatia, Ecuador, Estonia, Finland, Italy, Japan, Germany, Luxembourg, Mexico, Nigeria, Norway, Palestine, Netherlands, Poland, Slovakia and Switzerland), 11 High Contracting Parties to the 1954 Hague Convention not party to the Second Protocol (France, Hungary, Israel, Latvia, Madagascar, Monaco, Mongolia, Portugal, Syrian Arab Republic, Holy See and Ukraine), three other UNESCO Member States (Afghanistan, Marshall Islands and Togo), and five non-governmental organizations (International Catholic Center for Cooperation with UNESCO, International Committee of the Red Cross, International Council of Museums, Traditions for Tomorrow and WATCH "World Association for the Protection of Tangible and Intangible Cultural Heritage in Time of Armed Conflict"). Meeting documents are available at the following address: <http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/governance-and-meetings/>
2. The **Assistant Director-General for Culture a.i.** opened the meeting with an address in which he, among others, recalled the issues relating to the universal ratification of the 1954 Hague Convention and its two Protocols in the light of the unprecedented destruction of cultural property. At the operational level, he called for the promotion of the enhanced protection mechanism by encouraging Parties to submit requests for enhanced protection. On the financial side, emphasis was placed on the importance of the contributions from States to strengthen the financial and human resources of the Secretariat and the urgent need to increase the resources of the Fund for the Protection of Cultural Property in the event of armed conflict (hereinafter "the Fund") to ensure its viability. Finally, he called for strengthening synergies between the 1954 Hague Convention and other UNESCO Cultural Conventions and stressed the close link between support for Strategy for the Reinforcement of UNESCO's Action for the Protection of Culture and the Promotion of Cultural Pluralism in the Event of Armed Conflict and the implementation of the Second Protocol of 1999.

II. Election of the Bureau

3. Following the opening statement, the **Director of the Division for Heritage** proposed to proceed to the election of the Bureau. She informed the members of the Committee that the Secretariat had been officially informed of the nomination of H.E. Mr. Sophann Ket, Permanent Delegate of Cambodia to UNESCO, as Chairperson of the Committee. No other candidature having been presented, H.E. Mr. Sophann Ket (**Cambodia**) was unanimously elected Chairperson of the twelfth meeting of the Committee and was invited to take his seat on the podium.
4. Following the election of the Chairperson of the Committee, **Greece** officially announced the contribution in the amount of 10,000 euros from the Greek Government to the Fund for the Protection of Cultural Property in the Event of Armed Conflict.
5. After his election, the **newly elected Chair** called for the election of the four Vice-Presidents as well as the Rapporteur. With regard to the election of the Vice-Presidents: **Belgium** proposed Argentina; the **Czech Republic** proposed Georgia; **Egypt** and **Mali** proposed Morocco; and, **Greece** has proposed Cyprus. No objection having been raised, **Argentina, Cyprus, Georgia, Greece** and **Morocco** were respectively elected Vice-Chairmen. With

regard to the election of the Rapporteur, **Cambodia** nominated Mr. Souleymane Konaté, Cultural and Heritage Officer for the Permanent Delegation of Mali to UNESCO. As his candidacy did not raise any objections, Mr Souleymane Konaté (**Mali**) was elected Rapporteur. The Rapporteur was invited to take a seat on the podium.

III. Adoption of the agenda

6. The Chair proceeded to the adoption of the agenda and invited the participants to make their comments and to propose amendments. The Secretariat proposed some linguistic adjustments and informed Committee members of the introduction of a new agenda item concerning the request for international assistance on an urgent basis submitted by Libya. In the absence of comments or proposals, the Chairperson declared the agenda adopted as amended.

IV. Report of the Secretariat on its activities

7. The **Chairperson** then moved onto agenda item 4 and, in the preamble to the presentation of the Secretariat's report on its activities, invited the **Director of the Division for Heritage** to present the Strategy for the Reinforcement of UNESCO's Action for the Protection of Culture and the Promotion of Cultural Pluralism in the Event of Armed Conflict (hereinafter 'the Strategy').
8. In her presentation, she encouraged Member States to submit their comments in order to obtain a revised version of the Action Plan to be presented to the 201st session of the Executive Board. She highlighted the relevance of the activities proposed in the Action Plan in the light of the 1954 Hague Convention and its Second Protocol, while noting that support to the Strategy would contribute to better implementation of the Hague Convention and its two Protocols.
9. Following this presentation, **Greece** and **Cyprus** mentioned the example of the "task force" following a memorandum of understanding between Italy and UNESCO, as a good practice among the initiatives involved in the implementation of the Strategy. In this vein, **Cyprus** mentioned that it had set up a police unit in charge of the protection of cultural heritage.
10. **Azerbaijan**, **Greece** and **Turkey**, as observers, questioned the place of non-state actors in the draft action plan, while raising the issue of the mandate of UNESCO in this regard.
11. **Ecuador**, as an observer, questioned the return of cultural property stored in safe havens located on the territory of other States. In this respect, **Greece** has stressed the importance of bilateral agreements in this field, in order, *inter alia*, to settle precisely the question of the "return of cultural property".
12. The Assistant Director-General for Culture *a.i.* also recalled that the Strategy seeks to strengthen UNESCO's activities in the field, the activities proposed in the draft Action Plan primarily aimed at strengthening national capacities of Member States of UNESCO as part of their efforts to protect cultural heritage.
13. Following the presentation of the activities undertaken under the Strategy, the **Secretariat** presented the Report of the Secretariat on its activities. It provided information on the Secretariat's awareness raising and capacity-building activities, such as the publication of the first Military Manual for the Protection of Cultural Property in the Event of Armed Conflict and the organization of a training workshop for two days for the Malian army and MINUSMA in Bamako (Mali). He also made an oral update on the Secretariat's participation in several international meetings and conferences related to the protection of cultural property in the event of armed conflict.

14. The **Chairperson** then proposed to adopt draft Decision 10.COM 4 as it appeared in the working document (C54/16/11.COM/4/REV). As **Belgium** proposed a technical amendment, Decision 10.COM 4 was adopted as amended.

V. Consideration of requests for the granting of enhanced protection

15. The **Chairperson** led the discussions on agenda item 5 on the consideration of requests for enhanced protection, and requested the **Secretariat** to present the related working document (C54/16/11.COM/5), as well as the requests from Georgia and Mali.
16. At the invitation of the **Chairperson**, **Georgia** submitted additional information concerning the Historical Monuments of Mtskheta, which was the subject of the request for the granting of enhanced protection.
17. During the general debate, all Committee members congratulated Georgia for the completeness of its file and supported the inscription of the Historical Monuments of Mtskheta on the List of Cultural Property under Enhanced Protection.
18. At the end of the discussions, Decision 11.COM 5.1 was adopted as drafted.
19. At the invitation of the **Chairperson**, **Mali** submitted additional information concerning the Tomb of Askia which was the subject of the request for the granting of enhanced protection.
20. In the general debate, the members of the Committee congratulated Mali for its efforts and supported, in accordance with Article 11 (8) of the Second Protocol, the inscription of the Tomb of Askia on the List of Cultural Property under Enhanced Protection. Many members of the Committee emphasized the good practice of resorting Article 11 (8) in an exceptional situation such as that faced by Mali.
21. At the end of the discussions, Decision 11.COM 5.2 was adopted as drafted.
22. As the enhanced protection was granted respectively to the Historical Monuments of Mtskheta and the Tomb of Askia, the **Rapporteur** informed the members of the Committee of a proposal for amendments aimed at promoting the enhanced protection mechanism submitted by **Azerbaijan**. After the discussion, the members of the Committee considered it appropriate to make the Azerbaijani proposal a decision in its own right. Decision 11.COM 5 proposed by Azerbaijan was adopted as amended.

VI. Request for international assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict submitted by Mali in connection with the request for the granting of enhanced protection for the Tomb of Askia

23. The **Chairperson** conducted the discussion on item 6 of the agenda concerning the request for international assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict submitted by Mali in connection with the request for the granting of enhanced protection for the Tomb of Askia. The **Secretariat** presented the request for assistance from Mali in the related working document (C54/16/11.COM/6).
24. Following the presentation, **Mali** was invited to explain its approach to the members of the Committee. The latter unanimously supported the request for international assistance and congratulated Mali for its efforts to protect its cultural heritage.
25. At the end of the discussions, the members of the Committee agreed, in accordance with the statements made by the representative of **Mali**, to grant international assistance in the amount of 35,000 USD for the implementation of the activities referred to in the application, and Decision 11.COM 6 was adopted as drafted.

VI bis. Request for international assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict submitted by Libya

26. The **Chairperson** conducted the discussion on item 6bis of the agenda concerning the request for international assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict submitted by Libya. The Secretariat presented the request for assistance from Libya contained in the related working document (C54/16/11.COM/6bis).
27. Following the presentation, **Libya** was invited to explain its approach to the members of the Committee. The representative of Libya explained that his country was facing an armed conflict threatening cultural heritage, and that the granting of this financial assistance would make it possible to establish an inventory of the objects threatened, to sensitize the local populations as well as to evaluate the damage and take necessary protective and security measures. As a result of these explanations, the members of the Committee unanimously supported the request for international assistance and congratulated Libya on its efforts to protect its cultural heritage.
28. In these discussions on the draft decision, **Belgium** proposed an amendment to encourage the Libyan authorities concerned to submit an application for the granting of enhanced protection for some sites of its cultural heritage.
29. At the end of the discussions, the members of the Committee agreed to provide international assistance in the amount of 50,000 USD for the implementation of the activities mentioned in the request and Decision 11.COM 6bis was adopted as amended.

VII. Procedure for the granting of enhanced protection: methodologies for the evaluation of the conditions set forth by Article 10 of the 1999 Second Protocol

30. The **Chairperson** led the discussions on agenda item 7 on the procedure for the granting of enhanced protection: methodologies for the evaluation of the conditions set forth by Article 10 of the 1999 Second Protocol. The **Secretariat** presented the main issues of this agenda item and set out in working document C54/16/11.COM/7.
31. The majority of the members of the Committee expressed their reservations about the proposal of the **Secretariat** to nominate a renowned university to work on the establishment of a methodology. The Secretariat subsequently explained that it was not possible to mandate a subsidiary body to evaluate the criteria of Article 10, due to the lack of human and financial resources of the Secretariat.
32. **Argentina** and **Cyprus** emphasized that in assessing the condition set out in Article 10 (a) of the Second Protocol, the highly subjective nature of the notion of the "greatest importance for humanity" shall be taken into account and that, therefore, restrictive approaches should be excluded. Concerning the proposal of the Secretariat to introduce a table listing the safeguarding measures to be taken to ensure the "highest level of protection" in accordance with Article 10 (b) of the Second Protocol, they both insisted on the non-exhaustive characteristic of such table.
33. **Palestine** took the floor as an observer, and considered that it was necessary to amend the Guidelines concerning Article 10 (c), in contrast to the proposal made by the Secretariat in the working document. It noted that, for the same cultural property, the declaration of non-use for military purposes could be made by a Party and the request for the granting of enhanced protection by another Party. **Palestine** referred to the case where a Party exercises jurisdiction over a cultural object and, on the other hand, a Party exercises effective control over the same cultural property in question, because of military occupation. **Palestine** has therefore raised the possibility of amending the Guidelines on Article 10 (c) to cover all possible cases.

34. **Greece** and **Belgium** then put forward the idea of establishing an informal working group of technical experts. The proposal was supported by the other members of the Committee. In this respect, **Belgium** stressed the importance of the studies carried out by ICOMOS as a basis for work. During the discussions, some members of the Committee suggested that they should be governmental experts.
35. In this regard, the **Director of the Division for Heritage** proposed to the members of the Committee to continue in this direction through the establishment of an informal working group to work towards the establishment of such methodology.
36. Referring to the proposals of the **Director of the Division for Heritage**, members of the Committee emphasized that the establishment of an informal working group should not have any financial implications and agreed on the following amendment to the draft decision:
« Decides to create an Informal Working Group, composed of Committee members, wishing so, as well as of two experts per Electoral Group, with complementary expertise in order to propose recommendations to its Twelfth Meeting in particular on the implementation of Article 10 (a) of the 1999 Second Protocol ».
37. At the end of the discussions, Decision 11.COM 7 was adopted as amended.

VIII. Report of the Blue Shield on the situations where cultural property is at risk in the context of an armed conflict, including occupation

38. The **Chairperson** led the discussion of agenda item 8 on the report of the Blue Shield on the situations where cultural property is at risk in the context of an armed conflict, including occupation, and requested the **Secretariat** to present the related working document (C54/16/11.COM/8).
39. Several members of the Committee took the floor, some expressing their disappointment at not having had the report, others asking what synergy there would be between the Blue Shield Action Plan and the draft Action plan resulting from the Strategy to be presented to the 201st session of the Executive Board.
40. The representative of **ICOM** took the floor at the request of the **Chairperson** to provide further clarification. She stressed that there would be no duplication between the two above-mentioned action plans, while insisting that the Blue Shield proposed Action plan should be considered as a "living" action plan, that is to say an action plan taking into account the evolution of the discussions within the Executive Board.
41. The members of the Committee agreed to postpone the submission of the Report of the Blue Shield, while requesting that it shall be submitted to the Bureau of the Committee within a reasonable timeframe in order to allow for a substantive discussion on the Blue Shield's Action plan.
42. At the end of the discussions, Decision 11.COM 8 was adopted as drafted.

IX. Cultural property and its immediate surroundings

43. The **Chairperson** led the discussions on agenda item 9 concerning cultural properties and its immediate surroundings, and requested the **Secretariat** to present the related working document (C54/16/11.COM/9).
44. Some members of the Committee supported the Secretariat concerning the proposed amendments to paragraphs 55, 59 and 77 of the Guidelines to add "as appropriate" and not "where appropriate"), at the 7th Meeting of the Parties.

45. The purpose of the proposal is to highlight the optional nature of such information [i.e.: related to the characteristics of immediate surroundings] in the files for the request for granting of enhanced protection.
46. On the other hand, other members of the Committee stressed that the fact of not clearly defining the immediate surroundings of cultural property proposed for the granting of enhanced protection would weaken the enhanced protection mechanism as established by the Second Protocol.
47. Following the discussions, with a consensus in favor of an amendment to the Guidelines, Decision 11.COM 9 was adopted as amended.
- X. The notions of “control” and “jurisdiction” as set forth in Articles 10 (c) and 11 (2) of the Second Protocol: perspectives under international law and international case-law**
48. The **Chairperson** led the discussions on Agenda Item 10 concerning The notions of “control” and “jurisdiction” as set forth in Articles 10 (c) and 11 (2) of the Second Protocol: perspectives under international law and international case-law, and requested the **Secretariat** to submit the working paper (C54/16/11.COM/10).
49. Following the presentation by the Secretariat, the Chairperson opened the discussions. **Cyprus** proposed in the course of the discussions a draft decision suggesting, *inter alia*, an amendment to paragraph 42 of the Guidelines to replace the word "control" with the words "control or jurisdiction". **Greece** has supported the Cypriot proposal, so that it is possible for the party which has the control, but also the party having the jurisdiction, to submit a declaration of non-use for military purposes. This position was also supported by **Georgia**. As an observer, **Palestine** also stressed the relevance of the Cypriot proposal.
50. **Argentina** emphasized the importance of Article 11 (4) of the Second Protocol in the frame of the submission of requests for the granting of enhanced protection.
51. **Belgium** stressed the need to ensure the effectiveness of the enhanced protection mechanism and that, therefore, in the light of the Second Protocol, only the Party that had the control could submit a declaration of non-use for military purposes. It pointed out that the Cyprus proposal was not to interpret the Second Protocol, but to amend the Second Protocol - competence not covered by the Committee.
52. The **Secretariat** informed the members of the Committee that, from a procedural point of view, it was not possible to propose an amendment to the Guidelines during the session and clarified the rules to be followed in this area.
53. **Azerbaijan**, while supporting the Cypriot proposal, stressed the importance of following the procedure for amendments to the Guidelines and, therefore, it was preferable to ask the Secretariat to prepare a working document on the matter for the next meeting of the Committee. This proposal was supported by **Armenia, Belgium, Greece and Morocco**, as long as a consultation process is undertaken with the Parties to the Second Protocol during the preparation of this working document.
54. During this debate, the **Director of the Division for Heritage** highlighted a number of procedural issues. First, she wished to recall that the document under discussion was not a document proposing a revision of the Guidelines for the implementation of the 1999 Second Protocol to the 1954 Hague Convention. Such a revision would require a specific document with appropriate approvals including from the Office of International Standards and Legal Affairs (LA) and could not be prepared on an *ad hoc* basis. In addition, a document proposing to amend the Guidelines would require a decision of the Committee first.

55. Some members of the Committee suggested that a special session of the Committee should be held before the 7th Meeting of the Parties, so that the Committee could submit a draft amendment concerning the modalities for the submission of the declaration of non-use for military purposes. The proposal was not retained, however, for procedural and budgetary reasons.
56. Decision 11.COM 10 proposed by Cyprus was adopted as amended.

XI. Development of synergies with other relevant UNESCO's normative instruments and programmes and strengthening partnerships

57. The **Chairperson** led the discussions on agenda item 11 concerning the development of synergies with other relevant UNESCO's normative instruments and programmes and strengthening partnerships, and requested the **Secretariat** to introduce the working document (C54/16/11.COM/11).
58. Following the presentation of the Secretariat, the **Chairperson** proposed to move to the discussions. **Morocco** requested that relevant activities shall be continued in this regard in order to achieve concrete results. **Belgium, Cyprus, Greece and Morocco** also called for strengthening synergies with other UNESCO normative instruments and, in particular, the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the 2003 Convention for the Safeguarding of Intangible Cultural Heritage.
59. **Belgium** requested that the Memory of the World Register program shall also be taken into account as part of the efforts to enhance synergies, while calling on the Chairperson to continue meetings with the international platform for the protection of cultural property (Committee, UNESCO, Blue Shield and ICRC) initiated under the Belgian Chairpersonship of the Committee. In addition, Belgium presented its draft proposal for strengthening the synergies between the 1999 Second Protocol and the 1972 Convention. The said project was supported by a large majority of the members of the Committee.
60. Following the discussion, the **Chairperson** moved to the adoption of Decision 11.COM 11 and invited the members of the Committee to propose amendments. Following the reflections and amendments of the members of the Committee, Decision 11.COM 11 was adopted as amended.

XII. Update on fundraising and further development of the fundraising strategy

61. As the **Chairperson** was unable to conduct the discussions on item 12 of the agenda, **Cyprus** provisionally conducted the debates in accordance with Rule 18.1 of the Rules of Procedure of the Committee.
62. **The Acting Chairperson** led the discussions on agenda item 12 on the update on fundraising and further development of the fundraising strategy, and invited the Secretariat to present the working document (C54/16/11.COM/12).
63. Following this presentation, the **Acting Chairperson** invited the members of the Committee to make their comments. **Argentina** requested that non-governmental organizations shall be included in this fundraising strategy in order to bring out more creativity and diversify donors. The **Czech Republic** sought clarification on possible synergies between the Fund established at the Abu Dhabi Conference on Endangered Heritage and the Fund for the Protection of Cultural Property in the Event of Armed Conflict. The **Director of the Division for Heritage** informed the members of the Committee that the relationship between

UNESCO and the Fund still needed to be clarified and that this matter would be brought to the attention of the Executive Board in April 2017.

64. Some **observers** also took the floor. The **Netherlands**, as a major contributor to the Fund for the Protection of Cultural Property in the Event of Armed Conflict, called on other Parties to contribute to the Fund in order to ensure its long term viability.
65. Following the discussions, the **Acting Chairperson** moved to the adoption of draft Decision 11.COM 12. **Armenia** having proposed an amendment, the decision was adopted as amended.

XIII. Follow-up to the Audit of the Working Methods of Cultural Conventions and to the evaluation of UNESCO's Standard-Setting Work of the Culture Sector

66. The **Chairperson** led the discussions on agenda Item 13 concerning the follow-up to the Audit of the Working Methods of Cultural Conventions and to the evaluation of UNESCO's Standard-Setting Work of the Culture Sector, and invited the Secretariat to present the related working document (C54/16/11.COM/14).
67. At the end of the discussions, the **Chairperson** proceeded to the adoption of Decision 11.COM 13 and, in the absence of any objections, the decision was adopted as drafted.

XIV. Follow-up to the Recommendations of the External Auditor's "Report on the governance of UNESCO and dependant funds, programmes and entities" (Document 38C/23)

68. The **Chairperson** led the discussions on agenda item 14 on the follow-up to the Recommendations of the External Auditor's "Report on the governance of UNESCO and dependant funds, programmes and entities", and invited the Secretariat to present the related working document (C54/16/11.COM/14).
69. **Argentina** and **observers** agreed with the report by endorsing the simplification and improvement of the dissemination of results.
70. The **Chairperson** then proceeded to the adoption of Decision 11.COM 14. At the request of **Argentina**, technical amendments were added and Decision 11.COM 14 was adopted as amended.

XV. Report on the discrepancies between the French and English versions of the Second Protocol

71. The **Chairperson** led the discussion of agenda item 15 on the report on the discrepancies between the French and English versions of the Second Protocol, and requested the Secretariat to present the related working document (C54/16/11.COM/15). The **Secretariat** pointed out in its presentation that there were many discrepancies between the two language versions and that they would be corrected by means of a depositary letter addressed to all Member States in accordance with the practice of the United Nations in this area.
72. The **Chairperson** proceeded to the adoption of Decision 11.COM 15. Belgium had proposed an amendment concerning the follow-up to be provided by the Secretariat, and Decision 11.COM 15 was adopted as amended.

XV. Other business

73. The **Chairperson** gave the floor to members of the Committee to discuss issues of interest for their delegations.
74. Several delegations wished to take the floor to thank the Chairperson for the conduct of the discussions and the quality of the work of the Secretariat.
75. The delegation of **Azerbaijan** made a statement concerning the situation of cultural properties in territories, which are not under the control of the Republic of Azerbaijan. In this regard, the representative of Azerbaijan informed the members of the Committee of the illegal excavations in the Azykh cave as well as the export from the Azerbaijan Republic of objects discovered during the excavations. The Delegation added that, according to its Government, these activities constituted a violation of the 1954 Hague Convention and its two Protocols, in particular Article 9 of the 1999 Second Protocol. The Delegation of Azerbaijan concluded its declaration by requesting UNESCO Member States to refrain from providing financial or other assistance to persons and entities conducting archaeological excavations or explorations without the consent of the Republic of Azerbaijan.

XVI. Closure of the meeting

76. The Chairperson thanked the members of the Committee for their contribution to the smooth running of the discussions during the meeting. He gave the floor to the Director of the Division for Heritage who delivered a closing address. In her closing remarks, Mrs Rössler invited the members of the Committee to submit their own requests for the granting of enhanced protection and international assistance. Finally, she encouraged the members of the Committee to provide the necessary human and financial resources to the Secretariat to enable it to cope with the increasing workload.