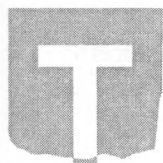


THE CONVENTION ON THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT - THE HAGUE, 1954

The main objectives and areas of study - comments and proposals regarding the collections of museums and galleries of Croatia

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1) The present scope of the 1954 Hague Convention and Protocol in relation to both movable and immovable cultural property



The events of the 1991/1992 war in Croatia have given evidence of the complete disregard for the international conventions on the protection of movable and immovable cultural heritage as well as of the absolute impossibility to enforce the application of the provisions of the Hague

Convention.

The Museum Documentation Centre (MDC) is the central institution for all museums and galleries of Croatia, as well as the coordinate institution for the implementation of the protection of the movable cultural heritage in the museum sector in the event of armed conflict.

Croatia has altogether 170 registered museum and gallery institutions, and during the war 46 of them were either heavily damaged or completely destroyed; 17 museums and galleries have remained on the still occupied territories of Croatia and no reliable information on their situation has been available to this day; the collections and material of 6 museums were looted and removed to Serbia. MDC has been continuously collecting the evidence on the damages, devastation and looting since the outbreak of hostilities in August 1991, issuing special publications on the subject (such as "The Destruction of the Museums and Galleries of Croatia During the 1991 War", the 1991/1992 issue of the journal *Informatica Museologica* no. 1/4 which was entirely devoted to this theme, publishing special bulletins on the damages, devastation and looting (in Croatian and English), handbooks and instructions on the protection of the movable cultural property in war conditions and so forth. MDC has also been permanently sending numerous reports submitting evidence on the destruction, thefts and looting, the registers of the museums and galleries in the occupied Croatian territories, as well as the reports on the impossibility to ensure the observance of the international conventions on the protection of cultural heritage, as well as the appeals for the assistance in this issues to UNESCO, the Intergovernmental Committee of the UNESCO for the Promoting of Return or Restitution of Cultural Property to the Countries of Origin, to ICOM-UNESCO, to the Working Group for the Amendments to the Hague Convention of the ICOM-UNESCO, to ICCROM and to all other relevant bodies.

The specialists of MDC also reported on the complex problems encountered in the efforts to enforce the observation of the Hague and

other international conventions regarding the protection of movable cultural heritage belonging to the museums at the international meetings on the subject of the war destruction of cultural heritage which convened in Croatia and abroad during 1991 and 1992.

The damages the Croatian museum network suffered during the war were caused by the intentional devastation of buildings housing museums and galleries, most of which are categorized immovable cultural monuments, together with their contents, by the requisitioning of museum collections and their removing to the territory of another state, as well as by the abandoning of objects containing cultural heritage of great value.

By ratifying the 1954 Hague Convention in 1955, the Federate Peoples Republic of Yugoslavia came under obligation to adhere to the provisions of the Convention ensuring the preservation of cultural heritage. The one-sided Declaration of F.P.R.Y. for the Protection of Cultural Property in the Event of Armed Conflict passed on 20. November 1954 and applicable from March 1955, and deposited at UNESCO is still valid. The Declaration was not recalled by the act of ratification of the Hague Convention in 1955.

In order to ensure effective protection of cultural property it is necessary to take national as well as international measures.

Since the war in the Republic of Croatia is not the case of an international conflict, the Article 19 of the Hague Convention provides for the application of its provisions on condition of negotiation of special treaties between the belligerent sides, which was impossible to achieve because of the refusal of the aggressor to negotiate about the preservation of cultural heritage, while the protection of international community completely failed and remained restricted to declarative support.

It is necessary to provide for the sanctions at the level of international community against the violators of the provisions of the Hague Convention, since it is obvious that without them the international intervention in favor of the application of the Convention has no effect.

The Convention should provide for the constitution of an International Court or some similar institute with the authority to prosecute for the crimes committed against cultural heritage.

At the eve of the outbreak of the open conflict, the Republic of Croatia took measures to ensure appropriate protection of cultural property according to the provisions of the Hague Convention. The Ministry of Culture and Education of the Republic of Croatia issued a number of decrees and instructions for the museum institutions in order to carry out the following measures:

- dismantling permanent displays
- categorization of museums and galleries and the classification of their material in order to make a selection for evacuation
- preparing and packing the selected material for the evacuation away from the museum or from the city
- evacuation of the packed material to the shelters prepared beforehand
- evacuation of material from the cities which came in the immediate danger of war operations (Osijek, Vinkovci, Nova Gradiška, Karlovac, etc. The museums of Vukovar and Ilok did not succeed to evacuate their collections from their cities.)
- copying inventory books on microfilm, primarily those of the museums and galleries category A and B, and storing copies in safe places
- storing inventory books and other documentation in safe places
- marking all museums and galleries with the insignia established by the Hague Convention
- appointing custodians for the museums and galleries

- issuing identity cards of the Ministry of Culture and Education marked according to the Hague Convention to the persons appointed to various tasks in accordance with the provisions of the Hague Convention concerning the protection of cultural property, etc.

Although the appropriate action to ensure the preservation of cultural heritage was taken and the provisions of the Hague Convention carried out, especially those contained in Articles 2 and 3, which require protection and respect of cultural property, the aggressor failed to observe any of them.

The contingency plan for safeguarding movables and imovables in the event of the outbreak of armed conflict in the country was prepared by the Working Group for the Application of the Hague Convention of Norway. It is very well made and suitable to be used by other countries threatened by the outbreak of war (the text of the plan was published in the *Informatica Museologica* No. 1/4, 1991/1992).

This plan specifically points out the most important measures to be taken in order to provide for the effective protection:

- marking and safeguarding the immovable cultural property
- criteria for the selection of movable cultural property for evacuation or dismantling and the ways to mark, pack, transport and evacuate them
- criteria for the selection of shelters
- measures to be taken in peacetime, including organizing museum personnel
- marking cultural property on maps, etc.

2) The effectiveness and implementation of and possible improvement to the peacetime preparations and training called for by the 1954 Convention, e.g. inventories of cultural property, temporary refuges and shelters, training on military academies etc.

The Article 7 of the Hague Convention provides for the measures to be taken in the time of peace to ensure the observance of the Convention in wartime by encouraging the spirit of respect for culture and cultural heritage of all people through the programs of military training.

It is necessary to improve those measures and propose the plans for training and organization of military specialists to be appointed to the task of ensuring the respect for cultural property and of cooperating with the competent authorities in their effort to preserve them.

Each country party to the Convention should draft a proposal containing:

- proposals for better regulation of the protection of cultural heritage and the list of cultural objects
- provide for the programs of military education which include the instruction on the provisions of the Hague Convention for the Protection of Cultural Heritage, in order to encourage appreciation of cultural heritage and better understanding of the importance of its preservation
- mark cultural objects on military maps and ensure that the military personnel be instructed on their protection
- appoint in peacetime commissioners for the protection of cultural property with appropriate training to organize protection in wartime in cooperation with the institutions on higher level. Such commissioner should be instructed to carry out all necessary preparations in peacetime.
- ensure that the commissioners for the protection of cultural property have every opportunity to appropriate education, training and speciali-

zation in their field

- regulate by their legislation the responsibility of commanding officers for the respect of cultural property
- publish the information on the protection of cultural property in military handbooks

(quotation from the proposal by the Working Group of Norway, *Informatica Museologica*, No. 1/4, 1991/1992).

The shelters for movable cultural property have to be provided and prepared in the time of peace. Article 8 of the Hague Convention should provide for the conditions and criteria for the construction of safe shelters which will protect cultural property from the dangers of war operations and also offer appropriate technical conditions for the safe storage of objects.

The use of the insignia established by the Hague Convention for marking improvised shelters, museums, transports of cultural property in evacuation, etc., was abandoned very quickly in Croatia since the aggressor did not only completely disregard them, but also frequently used them as targets. The attempted evacuation of museum collections from Vukovar and Ilok, planned according to the Article 12 of the Convention, also failed because of the aggressors ruthless disregard for its principles.

3) The implications for the protection of cultural property for non-international armed conflicts such as civil wars and terrorist campaigns

The Article 19 of the Hague Convention should provide for much more detailed regulation of the protection of cultural property, especially the provisions concerning conflicts within one single country, civil wars, territorial wars and ethnic conflicts, which have been the most frequent forms of conflicts since the end of the Second World War.

In such cases the Convention provides for the negotiation of special treaty between the belligerent sides which binds each party to the treaty to the observance the provisions of the Hague Convention as in the case of an international conflict. It is also vital to regulate in more detail the conditions under which all parties involved can apply for the intervention of UNESCO. During the war in Croatia it was impossible to act in accordance with the Article 19 because of the refusal of the other side to negotiate about the protection of cultural heritage. It is necessary to provide instruments for the enforcement of this article.

4) The possibility of improving the effectiveness and implementation of the Hague Convention through the international means, eg. international assistance, the possible role of the United Nations peace-keeping forces, etc.

It would be very useful to organize a special service, or a specially trained group within the peace-keeping forces of the UN with the task to ensure respect for cultural property, cooperate with competent authorities responsible for the preservation of cultural heritage, safe-guard cultural monuments in the occupied territory, ensure the protection of museums, libraries and archives from looting, theft or removal of their contents, etc. It might be possible to organize such units within the forces of UNPROFOR.

The European Community Monitoring Commission showed the signs of goodwill to cooperate in this spirit towards the preservation of cultural

property, but this was to no avail, since the Mission did not have the mandate to take such action.

The peace-keeping forces should have the mandate and the authority to assist in the protection of cultural property and to monitor and enforce the observance of the Hague Convention.

5) Effectiveness and various practical points in the 1954 Convention including:

a) the distinction between "protection" and "special protection" and the procedure for registering "special protection" on UNESCO's International Register

Articles 2, 4, 5, 8 and 9 and the articles concerning the transport of cultural property theoretically provide rules for the protection and for the special protection of cultural property, which were impossible to apply in practice at all.

The plans for evacuation of cultural property from museums and galleries had to be made after the outbreak of hostilities on the basis of categorization of material and in most cases the transport and evacuation were carried out during war operations.

The international system of protection and assistance did not function in practice at all, and the Article 23, concerning the assistance of UNESCO, was inefficient even in the cases of the cultural and natural heritage which is on the UNESCO World Heritage List, such as Dubrovnik, the Plitvice Lakes Nature Reserve and Split.

b) The arrangements in times of armed conflict for systems of "Protecting Powers", Commissioners General and for international assistance through UNESCO

The Protocol to the Hague Convention, and especially Articles 1 to 10, provide for the appointment of the Commissioner General and the inspectors of cultural property, but this was not attempted in the case of the war in Croatia. Since the beginning of the war MDC has repeatedly requested from UNESCO and ICOM-UNESCO to appoint a commission of the ICOM-UNESCO experts, in order to assist in the efforts to preserve cultural property, and in the controlling of the situation in the field, as well as to give their expert help in solving numerous other problems. The commission has not been appointed so far, but lately the preliminary agreement to send such a commission to Croatia sometime in 1993 was made with the Secretary General of ICOM-UNESCO.

c) The effectiveness of the procedures for sanctions and penalties in the event of breaches of the 1954 Convention

There is quite a lot of evidence that the provisions of the Hague Convention were violated on purpose and as a matter of policy during the war in Croatia. All appropriate measures to protect and safeguard cultural property were carried out, but the aggressor refused to act in accordance with the letter and spirit of the Convention. It is therefore necessary to define precisely the sanctions and punishments for the violators of the Hague Convention, as well as the ways to implement them and the obligatory time for carrying them out.

The impossibility to protect cultural heritage of national and international significance (Dubrovnik, Split and the Plitvice Lakes Natural Reserve, which are listed in the UNESCO World Heritage List) in Croatia during the whole war presents a perfect subject for a **case study** of the complete failure of the application of the provisions of the Hague Convention in practice and of the slowness of UNESCO to act in favor

of their enforcement.

Respect for cultural property, Article 7

The occupying power violated in Croatia the basic principles of the Hague Convention contained in this Article by requisitioning cultural property from museums and from shelters. The Ministry of Culture and Education, MDC and other institutions continuously notified UNESCO of the instances of this violations - from the first reliable information on them to the very detailed registers on the problems of the museums on the occupied territory of Croatia. In spite of that, UNESCO has not taken any steps towards preservation of cultural property in museums so far.

EXAMPLES:

1. Exhibition "The Icons of Dalmatian Krajina", National Museum, Belgrade, May-July 1992, organized by: the National Museum, Belgrade, the Commission for the Protection of Cultural Property of Serbian Origin on the Territory under War Operations, the Ministry of Culture of the Republic of Serbia, the Ministry of Culture of the Republic of Serbian Krajina. The exhibited materials are under the competence of the Institute for the Protection of Cultural Heritage of Zadar and Šibenik. This is a flagrant case of violation of the Hague Convention.
2. Exhibition "Vukovar 1991-a Genocide of Serbian Heritage", Paris, May 1992, displayed in the Yugoslav Cultural Center with the accompanying catalogue, presented a part of the material belonging to the Vukovar Municipal Museum (photographs), and one of the organizers of this exhibition was the newly established Serbian Municipal Museum of Vukovar. The way of presentation, as well as the participation of the newly established Serbian Museum of Vukovar, etc., are severe violations of the Hague Convention. 84 exhibits in the legal possession of the Bauer Collection and the Vukovar Municipal Museum were also shipped to Paris with the exhibition, but were not displayed. 26 of these objects were listed in the catalogue of the exhibition, contrary to all international conventions, especially to the Hague Convention. Croatia requested the intervention of the UNESCO in accordance to the provisions of the Hague Convention, but with no result to this day.

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