

Research for CULT Committee – Protecting cultural heritage from armed conflicts in Ukraine and beyond

This study examines how cultural heritage can be better protected from the effects of armed conflicts, in Ukraine and beyond. It includes an analysis of the applicable international law and policy frameworks and the practice of key international actors in Ukraine, as well as in past conflicts. It concludes with a set of recommendations to the EU and its Member States to strengthen the protection of cultural heritage from the effects of armed conflicts, now and in the future.



Key findings

- **Cultural heritage is often targeted and may even be at the centre of armed conflicts.** Cultural heritage includes tangible cultural heritage - such as sites, monuments and cultural objects - and intangible heritage - such as traditions and customs. In armed conflicts, cultural heritage may be damaged or destroyed as collateral damage and/or because it is targeted for military reasons. As cultural heritage is an element of cultural identity, it may also be directly targeted for ideological reasons as can be witnessed in Ukraine. Breakdowns in the rule of law during armed conflicts also often lead to looting for economic gain.

- **Cultural heritage protection is key to peace, security and the sustainable development of societies.** Threats to cultural heritage endanger the key values of the EU, as well as its legal order, security and external relations, even if those threats arise from conflicts beyond EU borders. The war in Ukraine poses specific and new challenges to the EU, and thus a reconceptualisation is needed of the mechanisms, tools and instruments to protect cultural heritage.

The present document is the executive summary of the study on “Protecting cultural heritage from armed conflicts in Ukraine and beyond”. The full study, which is available in English can be downloaded at: <https://bit.ly/3FxNAdf>

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- **The protection of cultural heritage in armed conflict has a solid basis in international law. It is covered by international humanitarian law, but also human rights law, cultural heritage law and criminal law.** The EU and its Member States are required to protect cultural heritage in armed conflict and to prosecute certain crimes against cultural heritage. This results from a complex regulatory matrix stemming from: the international obligations of the EU and its Member States; regional treaty law; instruments and measures established by the EU; and domestic law. However, the legal framework is fragmented and has gaps.

- **International initiatives to protect cultural heritage in Ukraine are numerous, and many actors are involved with overlapping mandates.** These initiatives focus on: monitoring of damages; emergency relief measures; training of heritage professionals; digitisation of inventories and archives; and support of the cultural sector. The multiplicity of actors, in combination with insufficient coordination and standards, carries the risk of duplication; whereas some needs may remain uncovered. Even at the EU level many actors are involved, which creates a challenge to a coherent EU policy.

- **Projects to safeguard or restore conflict-affected cultural heritage have major social impacts, and participation of local communities is key to their success.** Cultural heritage may be used in conflict narratives and thus can fuel conflicts. This may be the case when cultural heritage is claimed as exclusive (national) heritage by a certain party in a conflict. At present there is insufficient independent monitoring of attacks against cultural heritage at all stages of a conflict. In post-conflict recovery projects, memorialisation is of great importance; and when local communities are not fully integrated, the project is likely to have less impact on reconciliation.

Solutions

States should have measures in place before a conflict breaks out.

Such measures include: (1) the preparation of inventories; (2) the preparation of plans for the removal of collections (to refuges or safe havens); (3) the planning of emergency measures for protection against fire or structural damage. Apart from measures regarding *local* cultural heritage, measures must also be taken to safeguard *foreign* cultural heritage. These include: (4) the training of armed forces and law enforcement on cultural heritage protection; (5) regulating the possible prosecution of crimes against cultural heritage; and (6) the prevention of the trade in looted cultural objects from conflict areas.

Cultural heritage protection should be integrated within the international system for humanitarian aid and peacekeeping.

Most protocols for emergency response and humanitarian aid are based on the notion that cultural heritage should only come into play at the recovery phase. Better integration of cultural heritage into emergency coordination systems is needed for more adequate protection. Being absent from this system means that it is difficult to be part of the broader coordinated response. Similarly, protection of cultural heritage should be adequately embedded in peacekeeping missions.

Independent monitoring of the impact of armed conflicts on cultural heritage would enhance accountability for war crimes, as well as post-conflict peacebuilding efforts.

Monitoring of cultural heritage during armed conflicts mainly concerns the listing of affected monuments and sites. A more comprehensive system that includes evidence gathering and documentation would contribute to more adequate responses to crimes or injustices. This has become more relevant in the light of the work of the recently established Core International Crimes Evidence Database (CICED).

Recommendations

Based on the findings of this study, the following recommendations are proposed:

1) **Address emergencies in Ukraine:**

- Address outstanding gaps in emergency relief (e.g., digitisation of inventories).
- Raise awareness about unlawfully exported cultural objects that may enter the market with forged provenances.
- Support a clear strategy for the post-war recovery of cultural heritage, and promote it within the framework of the National Recovery Framework Plan for Ukraine.
- Protect and promote the cultural rights of refugees from Ukraine in EU Member States.

2) **Close the accountability gap:**

- Ensure the independent monitoring of attacks to cultural heritage.
- Ensure that heritage-related crimes are considered by the Joint Investigation Team (JIT) and in submissions to the CICED.
- Ensure that domestic legislation in EU Member States, and any tribunal set up specifically for Ukraine, enables the prosecution of crimes against cultural heritage.
- Consider adopting measures that prevent entities within the EU to support, directly or indirectly, the unlawful removal of cultural objects or excavations of archaeological sites, including through cooperation with institutions or persons that engage in such unlawful behaviour.

3) **Coordinate measures and policies at the EU level:**

- Establish a dedicated EU body to coordinate the protection of cultural heritage.
- Integrate cultural heritage protection into the broader field of emergency relief and humanitarian aid.
- Include cultural heritage in mandates for EU peacekeeping missions.
- Ensure coordination among national law enforcement and the relevant EU agencies on matters concerning the illicit trade.
- Regulate the issue of safe havens to temporarily safeguard collections from conflict zones, to avoid uncertainties about their legal status.

4) **Ensure that preparatory measures are in place in EU Member States:**

- Further support the setting-up of inventories and their digitisation within cultural institutions and heritage sites across the EU.
- Support the development of (emergency) preparedness policies and laws across the EU.
- Promote the setting-up and training of (sizeable) dedicated units in the military and law-enforcement, including border control.

5) **Address the illicit trafficking in cultural objects from conflict zones:**

- Raise awareness that looted cultural objects from conflict zones circulate on the EU market.
- Introduce mandatory due diligence standards for the trade in cultural goods, to mitigate the risks of looted cultural objects from war zones being traded.

- Create an open access database of national legislation pertaining to cultural heritage, or support an update of the existing (outdated) UNESCO database.
- 6) **Focus on community participation and memorialisation in the recovery and reconstruction phase:**
- Ensure that local communities are involved in decision-making processes of recovery and reconstruction at all stages and all levels.
 - Include peacebuilding actions, such as those relating to memorialisation, in recovery projects.

Further information

This executive summary is available in the following languages: English, French, German, Italian and Spanish. The study, which is available in English, and the summaries can be downloaded at: <https://bit.ly/3FxNAdf>

More information on Policy Department research for CULT: <https://research4committees.blog/cult/>



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