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الجمعية البرلمانية للبحر الأبيض المتوسط

### **3<sup>rd</sup> Standing Committee on Dialogue among on Civilization and Human Rights**

“Protection of Cultural Heritage in the context of armed conflicts”

Rapporteur: Hon. Gabriela Canavilhas (Portugal)

#### **Report**

## **I. INTRODUCTION**

1. The Protection of Cultural Heritage, in all its ramifications, is of paramount priority for the international community and the Parliamentary Assembly of the Mediterranean (PAM). As stressed in the preamble of the 2003 UNESCO Declaration “cultural heritage is an important component of cultural identity and of social cohesion, so that its intentional destruction may have adverse consequences on human dignity and human rights”. Acts of deliberate destruction are often accompanied by other grave assaults on human dignity and human rights. They have to be addressed in the context of holistic strategies for the promotion of human rights and peacebuilding.
2. As stated in the PAM report on “Protection of Cultural Heritage”, unanimously adopted on 23 February 2017 during the 11<sup>th</sup> PAM Plenary Session in Porto, the destruction or damaging of the cultural heritage – both tangible and intangible – is a fundamental question relative to human rights, because of its multiple consequences at every level of the social fabric, starting from the individual citizen, up to the official relations between States. Acts of intentional destruction harm all, and often disproportionately affect persons belonging to minorities. They contribute to intolerance, and deprive all humanity of the rich diversity of cultural heritage. Therefore, attacks perpetrated against cultural heritage, such as the voluntary destruction, must be opposed and, as much as possible, prevented.
3. The PAM report also highlighted the nexus between illicit trafficking of cultural objects and criminal activities, as “instruments of war” to finance terrorist activities as experienced in Syria and Iraq, and witnessed by PAM delegates on the occasion of their visit to Damascus. The Rome Statute of the International Criminal Court offers a good legal and criminal response to these crimes.
4. There is heightened concern today over the unprecedented scale of organized looting and trafficking often combined with the intentional destruction of cultural heritage sites – especially

in the context of crises in the Mediterranean region and the Middle East. In 2017, the United Nations Security Council focused its attention on the global efforts to stop the trafficking and destruction of cultural property. In particular, it adopted unanimously, on 24 March 2017, the UNSC Resolution 2347 (2017) on the protection of cultural heritage. Already on 30 November 2017, Mr. Vladimir Voronkov, UN Under-Secretary-General for Counter-Terrorism, presented the first Report on the adoption of the UNSC Resolution 2347 to the members of the UNSC.

## **II. CURRENT SITUATION**

5. World cultural heritage has an exceptional value, and the international community has repeatedly recognized the need to protect it by adopting legal instruments, as broadly explained in the PAM Report on the Protection of Cultural Heritage, adopted at the 11<sup>th</sup> PAM Plenary Session last year in Porto.
6. UNESCO, the International Council on Monuments and Sites, the World Customs Organization and the International Criminal Police (Interpol), are all involved in the implementation of international conventions on cultural heritage, such as the 1954 Hague Convention and the 1972 UNESCO Convention. They also monitor compliance with the 1954 Convention's Second Protocol protecting cultural heritage, and the International Institute for the Unification of Private Law (Unidroit) Convention on trafficking of artefacts.
7. With UN Security Council Resolution 2100 (2013), the protection of cultural heritage sites was included for the first time in the mandate of a UN Peacekeeping mission, the UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).
8. By the 2015 adoption of resolution 69/281 “Saving the cultural heritage of Iraq”, the UN General Assembly deplored the rise in deliberate attacks and threats on the cultural heritage of countries affected by armed conflicts.
9. A major breakthrough was achieved through the adoption in February 2015 of UN Security Council Resolution 2199, under Chapter VII of the UN Charter. This resolution recognizes that the illicit trafficking of cultural objects can be used as a source of financing for terrorism and requires Member States to take legally-binding measures to prevent “trade in illegally exported Iraqi and Syrian cultural property” with the assistance of UNESCO, INTERPOL, and their main partners. This requirement was reiterated in UN Security Council resolution 2253 (2015).
10. In November 2015, the UNESCO General Conference adopted Resolution 38C/48 “Reinforcement of UNESCO’s action for the protection of culture and the promotion of cultural pluralism in the event of armed conflict”, aimed at reinforcing the effectiveness of UNESCO’s action.
11. In 2015, during the 39<sup>th</sup> session of the World Heritage Committee Meeting held in Bonn (Germany), the former Director General of UNESCO, Ms Irina Bokova, launched the Global Coalition, *Unite for Heritage*, a global movement aimed at strengthening the mobilization of

governments and all heritage stakeholders in the face of deliberate and voluntary damage to cultural heritage and diversity, especially in the Middle East. The campaign calls everyone to celebrate the places, objects and cultural traditions and invites to promote them, sensitizing the consciences, among the "social community" with the hashtag #unite4heritage.

12. PAM, as sign of its commitment, held inter alia a special meeting on “The Protection of World Cultural Heritage Threatened with Destruction”, in Rabat, on 14-15 May 2015, hosted by the Parliament of the Kingdom of Morocco. During the conference, it was underscored that, in addition to the respect by States for existing international instruments and conventions, there is a need for new methods and strategies to counter the recent trend of armed groups and terrorist hordes to act against cultural heritage by vandalising or plundering it. On that occasion, due to the impossibility to force terrorists to respect international conventions, it was indicated that one of the best options to stop the illicit trafficking of archaeological artefacts is to consider as members of these criminal organizations the merchants who propose these objects on the international market. According to the *Carabinieri*, this approach was already showing its effectiveness.
13. In Rabat, the role of education was also raised, as well as the necessity to inform and educate young generations in order to eradicate the spread of an extremist mentality which facilitates their recruitment by terrorist groups. In view of the recommendations made during the debate, participants agreed to create a “Special Reflection Group on the Protection of the World Cultural Heritage”, and to coordinate and harmonize regional and international efforts, as well as strengthening the joint action mechanisms in order to develop policies and legislation to protect this global humanitarian legacy. The seminar also recommended that governments should take joint action to counter acts of destruction and looting of World Cultural Heritage in many regions of the world, while parliaments were invited to promote in their respective regions and national fora, the provisions of the relevant international conventions and Resolutions on this matter.
14. In 2016 the Government of Italy and UNESCO signed in Rome a landmark agreement to establish a Task Force, which see the deployment of specialized personnel from the *Carabinieri* special unit for the Protection of Cultural Heritage, to protect ancient cultural artefacts from the hands of extremists in crisis areas, reaching, until today, exceptional results<sup>1</sup>. PAM and this Special Unit of the *Carabinieri* have established in 2015 a model cooperation in sharing lessons learned and best practices, and senior official of the *Carabinieri* have regularly addressed PAM meeting on this topic.
15. Despite the 1954 Convention and its additional Protocols, the destruction of and trafficking in cultural properties persisted throughout numerous regional conflicts in the Mediterranean region. The newly elected UNESCO Director-General, Ms. Audrey Azoulay, recently pointed

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<sup>1</sup> As declared after the adoption of the UNSC Resolution number 2347 by the Head of Italy's *Carabinieri* Unit for the Protection of Cultural Heritage, General Fabrizio Parrulli, the unit had investigated and trafficking of almost 800.000 pieces of art and 35.000 people, detaining more than 1.000 people in defence of culture heritage.

out that out of the 82 UNESCO World Heritage sites located in the Arab region, 17 are on the List of World Heritage in Danger due to armed conflict. Over 100 cultural heritage sites across Iraq have been damaged, all six Syrian World Heritage sites have been severely affected, including Palmyra, and the renowned city of Aleppo, one of the oldest cities in the world, now reduced to rubble.

16. Following the new and more recent forms of aggression and destruction carried out by terrorist groups, the international community has recognized the need for more forceful prevention and intervention. On 24 March 2017, the UN Security Council unanimously adopted Resolution 2347, which reinforces Resolution 2199. This new Resolution adds the thorough awareness of culture's role as a source of stability and inclusion, and as a driver of reconciliation and resilience.
17. On 7 and 8 December 2018, the European Year of Cultural Heritage (EYCH 2018) has been officially launched by EU Commissioner for Culture, Education and Sport Tibor Navracsis and the Chair of the European Parliament Committee on Culture, Petra Kammerevert at the EU Culture Forum held in Milan (Italy). The year will see a series of initiatives and events across Europe to enable people to become closer to and more involved with their cultural heritage. Each EU Member State has appointed a National Coordinator to implement the year and coordinate events and projects at local, regional and national level, and PAM is ready to play its part to support such activity.
18. The action carried out at international level, starting from the 1954 Hague Convention and the 1970 UNESCO Convention, has been enriched therefore by initiatives at a global and national level, but still lacks an organic approach, and it presents important deficits about implementation and execution.

### **III. UNSC RESOLUTION 2347 (2017)**

19. On 24 March 2017, the UN Security Council unanimously adopted Resolution 2347. It is the first Resolution to focus exclusively on cultural heritage, and for the first time the Council addresses this matter in an organic way and completes the job that the United Nations and the international community have been conducting, under other forms and using other instruments, for some decades. In the Resolution, the Security Council deplored the unlawful destruction of cultural heritage, religious sites and artefacts, and smuggling of cultural property by terrorist groups during armed conflicts.
20. The adoption of Resolution 2347 (2017) testified to a new awareness on the importance of culture to respond to conflicts, to prevent radicalization and fight violent extremism and enlarges the scope of actions requested for the protection of cultural heritage. The Security Council thus underlined that some attacks against religious, educational, artistic, scientific, historical or charity sites and monuments may, in some circumstances and according to

international law, constitute war crimes, and that their authors must be brought to justice, on the model of what already indicated in PAM resolutions.

21. The Resolution also underlines the importance of the link between the defence of the cultural heritage and the process of peacekeeping and peace building, together with the fundamental issue of the international security. In order to achieve that, Member States have to continue exercising vigilance over relevant financial transactions and improve information-sharing capabilities and practices, in line with applicable international law. Moreover, the Security Council also stressed the possibility to include the protection of cultural heritage in the United Nations' peacekeeping missions, as also highlighted in PAM hearings and debates on the subject.
22. The Resolution also recognizes the indispensable role of international cooperation in crime prevention and criminal justice. There is also a mention on the recent decision taken by the International Criminal Court, which for the first time convicted a defendant for the war crimes of intentionally directing attacks against religious buildings and historic monuments and buildings.
23. The Council also reiterated that Member States have the primary responsibility to protect their cultural heritage, and that efforts must comply with the United Nations Charter and respect the principle of sovereignty. The Resolution also encourages Member States to take preventive measures to safeguard cultural property in the context of armed conflict and "take appropriate steps to prevent and counter the illicit trade and trafficking in cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance originating from armed conflict areas, notably from terrorist groups."
24. However, it is well known that UNGA Resolutions have no binding force, it turns out to be "soft laws", without operational indications. Therefore, the impact of Resolution 2347 depends on the willingness of States to put it into action and cooperate among them to achieve its goals. The key issue is, once again, the incapacity of the international community to deal effectively with non-State actors when these criminals destroy the world and cultural heritage in the territories they control.

#### **IV. UN REPORT ON THE UN SECURITY COUNCIL RESOLUTION 2347**

25. On 30 November 2017, the first Report on the UNSC Resolution 2347 on the protection of cultural heritage was launched at the UN in New York. Mr. Vladimir Voronkov, the newly appointed UN Under-Secretary-General for Counter-Terrorism, presented the Report to members of the UN Security Council during a briefing on "Maintenance of international peace and security: Destruction and trafficking of cultural heritage by terrorist groups and in situations of armed conflict".

26. The report highlights the importance of strengthening the implementation of the Resolution, explores a number of good practices shared by 29 Member States and presents a series of recommendations to strengthen heritage protection, awareness raising, data collection and training peacekeepers, with a view to better integrate cultural issues in future peacekeeping missions.
27. The Report shows that Resolution 2347 has already resulted in the adoption of strong regulations and growing efforts to document, preserve and safeguard cultural heritage at risk, as also said by UNESCO Director-General during the briefing.
28. Ms Azoulay underscored that the UN response must step up efforts in several key areas that encompassed raising awareness of the resolution to strengthen its implementation by all Member States; facilitating data collection and information sharing on trafficking routes, on damage assessment; and training peacekeepers in the protection of cultural heritage and integrate this issue into peacekeeping mandates and missions.
29. For his part, Under-Secretary-General Vladimir Voronkov linked the looting and illicit trafficking of cultural objects with the financing of terrorism and criminal networks, and advocated for a stronger focus on investigation, cross-border cooperation and exchange of information, and for including private and public-sector partners to promote supply chain integrity and stop the illicit sale of cultural property. Last September, PAM delegates also actively participated in and contributed at the side event on this topic, at the UNGA in New York, organized by the Permanent Mission of Italy, the European Union, UNESCO, UNODC, and the Global Centre for the Responsibility to Protect. During the event, it was remarked how acts of intentional destruction of cultural heritage constitutes war crimes and be part of a wider effort by terrorists and violent extremists to destroy a group and its history. The link between protection of the cultural heritage and security, economy, tourism, sustainable development and peace and reconciliation was extremely highlighted.

## **V. CONCLUSIONS AND RECCOMANDATIONS**

30. Defending the cultural heritage is a major challenge for ensuring peace, security and sustainable development. Therefore, it requires PAM Member States to make every kind of efforts to implement the international normative framework and to improve their cooperative actions.
31. It also demands a global criminal-justice response that could disrupt organized criminal and terrorist networks, including through anti-corruption and anti-money-laundering action. International legal instruments and operational tools already provide a meaningful framework that should be fully implemented by Member States and all relevant stakeholders. PAM should offer to the international community its expertise acquired in its cooperation with the UN CCT in the adaptation or adoption of legislative measures to reinforce national legislations, while facilitating regional cooperation.

32. PAM encourages all Member States that have not yet done so to consider ratifying the 1954, 1970 and 1972 UNESCO Conventions, and related 1954 and 1999 Protocols, the 1995 UNIDROIT Convention, the 2000 United Nations Convention against Transnational Organized Crime (UNTOC) and the 1999 International Convention for the Suppression of the Financing of Terrorism (CSFT).
33. The Assembly also recommends its Member States to ratify the Rome Statute or accept its jurisdiction for crimes against cultural property on an ad hoc basis to facilitate the prosecution of crimes against cultural heritage and thereby fight the impunity of perpetrators.
34. PAM also calls its Member States to fulfil their obligations under UNSC RES 2199 (2015), 2253 (2015), 2347 (2017) and other resolutions related to cultural heritage protection, as well as the PAM Resolution on “Protection of Cultural Heritage”, unanimously adopted on 23 February 2017 during the 11<sup>th</sup> PAM Plenary Session in Porto.
35. National legislation should be aligned, as appropriate, with relevant international standards and should be reviewed so as to establish destruction of, or trafficking in cultural property, including stealing and looting at archaeological and other cultural sites, as a serious crime, as defined in article 2 of the United Nations Convention against Transnational Organized Crime (UNTOC).
36. National legislation should also translate into practice and implement the provisions of the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two protocols.
37. For the complexity of the international situation, States' commitments have to be connected and oriented to the same direction, by harmonizing the misalignments and making State norms consistent with each other. A PAM meeting on the application of UNSC 2347 is strongly recommended, as already being done for the implementation of the UNSC resolutions on FTFs. The meeting should engage the participation of the UN relevant agencies, such as UNESCO, ISESCO, CTED, UN CTO, UNODC, the *Carabinieri*, as well as other Euro-Mediterranean bodies dealing with cultural heritage.
38. A high level of cooperation between States and their respective Ministers, national agencies and authorities should be further enhanced, in terms of transaction and sale of cultural goods, in order to prevent terrorists and criminals profiting from illicit trafficking of cultural property in various areas of conflict.
39. At the national level, a greater collaboration is needed between the public and the private spheres to prevent illegal transit and trafficking, hamper illegal conduct, and disrupt criminal networks. International and national military forces deployed in conflict zones should be provided with training on cultural heritage, as suggested by UNESCO in the Military Manual on Protection of Cultural Property.
40. The protection of cultural heritage should be taken as a priority not only in times of conflicts, but also of peace. Educational programmes and exchange of students and professionals should be promoted, as a way to contrast the rise of violent extremism.