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**Protection of cultural heritage in the event of armed conflict -
Implementation of legal regimes in the mass destruction of cultural heritage by the
ISIS**

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Abstract

This dissertation was written as part of the MA in Art Law and Intellectual Property Rights at the International Hellenic University. It approaches matters of prohibition of destruction of cultural heritage, both tangible and intangible, that can take place in any form (e.g. pillage, theft, decontextualisation, tear-down). Through examining past and in force legal regimes this dissertation will try to implement ways of prohibition of mass cultural destruction that is happening in the occupied by the ISIS territories.

This dissertation would not have been made without the supervision and valuable contribution of my supervisor and professor, Dr Grammatikaki Alexiou.

Keywords : cultural property, legal regime of the past, legislation in force regarding protection, ISIS, solutions to block destruction of cultural heritage,

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Preface

This thesis was a result of the course "Artwork transactions-Legal aspects of international trade in arts" taught in the first period of the Master in Art Law and Arts Management by Dr. Grammatikaki-Alexiou. In particular, upon examining case law related to mass cultural damage we touched upon the ISIS phenomenon, its beliefs culture-wise and its dogma of returning into the Year Zero, which will be explained thoroughly below. This dissertation applies theoretical aspects of protection, derived from legislation and case law, into the real case scenario of nowadays mass destruction of cultural property In Syria and other areas occupied by ISIS. Through both theoretical and practical approaches, this dissertation's goal is to educate the reader about the infamous cases of destruction that have taken place and inform him about the beliefs of this particular terrorist group. Lastly, through this dissertation, I will try to answer to the basic question of this paper, i.e. how one can apply regimes that block destruction of cultural assets to such groups and if new measures can be found and implemented against them. I must note here that one of the difficulties I had to overcome was the fact that, even if the aforementioned terrorist group has received huge media attention, yet there were few sources of officially recorded monuments that were destroyed, since upon occupation, civilians and reporters refrained from approaching the area, in order to draft an official report of destroyed monuments. As a result, I had to rely on the heartbreaking video recordings that ISIS members upload on different platforms (i.e. you tube), when destroying a historical sight, in order to include them and use them as examples in my dissertation.

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Introduction

As it is known, in war not only the lives of civilians are at stake, but also their cultural identity. This applies particular in cases of armed conflict, where extremists, usually, upon conquering a town or nation, try to tear down monuments of cultural heritage, when the values of the monument (religious mostly) don't team up with theirs (e.g. ISIS and Christian churches in Syria). This thesis will focus on ways to block and prevent such efforts.

My main goal is to search through past actions in history for the protection of cultural heritage assets and apply them in present cases, or propose new ones, in order to stop the abovementioned catastrophic phenomenon. Some of the main questions this paper will focus are: *Do we have any examples of cultural heritage assets being saved? If saved, then how (examples of past legislation that led to the protection of these assets)? Does our legislation provide any ways to save such assets? When we say that cultural heritage is at stake in armed conflict, do we mean only tangible, or do we also include intangible assets ? Can ADR be implemented in such cases or do we have to take stronger measures?* My main objective and expected outcome is to contribute to the research on what is to be done in order to prevent destruction of our most valuable legacy, that forms our identity in a worldwide scale, by applying past knowledge and finding new copying mechanisms into real case scenarios of mass destruction, such as the destruction that ISIS does.

1. Definitions

a) Defining cultural heritage

Generally speaking, we are surrounded by cultural heritage. One can realize that by simply taking a walk in his town. However, the notion of cultural heritage is a vague term and hard to define, as both terms ("cultural " and "heritage") are susceptible to various and differentiated interpretations. To begin with, culture is shaped by the values of a society. When the notion of culture is shaped by a society, then the product of it, meaning the artifact, i.e. the tangible or intangible aspect of it, is characterized as heritage. Of course, in order for an asset to be considered as a cultural one, many specific conditions have to be met. These conditions differ from one country to another, as UNESCO has given the permission to every country to define its cultural property. That is the reason why UNESCO has provided a rather generic definition of what consists cultural heritage, so as to include every possible asset of every country. In particular, according to the definition of UNESCO found in its database (www.unesco.org) : "The term cultural heritage encompasses several main categories of heritage:

- **Cultural heritage**
 - Tangible cultural heritage:
 - movable cultural heritage (paintings, sculptures, coins, manuscripts)
 - immovable cultural heritage (monuments, archaeological sites, and so on)
 - underwater cultural heritage (shipwrecks, underwater ruins and cities)
 - Intangible cultural heritage: oral traditions, performing arts, rituals
- **Natural heritage:** natural sites with cultural aspects such as cultural landscapes, physical, biological or geological formations
- **Heritage in the event of armed conflict**

As one can realize, cultural heritage includes every human product, such as movable or immovable assets of cultural significance. Immovable assets can be

archaeological sites, prehistoric caves, natural sites of specific importance etc. Regarding immovable assets, goods such as the music of a nation or verbal expressions, embody the notion of culture.

One must note that the phrase " cultural heritage" was first introduced in the 1972 World Heritage Convention, following the 1954 Hague Convention, which was the first Convention to try to introduce the notion of heritage in cultural assets, without mentioning it directly. However, the definition of the 1972 World Heritage Convention was limited, as it applied only to immovables. Nevertheless, its contribution was crucial, as it was the first Convention to detach the notion of property in cultural assets, which was dominant in the pre-existing legislations. In particular, article 4 of the Convention of the 1972 World Heritage Convention clearly stated that " *it is the duty of each State Party to identify, protect, conserve and transmit the cultural and natural heritage to future generations.*" With the introduction of the term heritage the definition of the objects and places that require protection has become broader. The notion of heritage was solidified in the 1995 Unidroit Convention, which was created, in order to be used as a tandem and a bridge between the 1954 Hague Convention and the 1972 Hague Convention (Forrest C., 2010, p.p.3-5, 56-130,224-286).

It is therefore understandable, that these assets embody both economic and cultural values, that apply to a homogenous group or community, that should be protected from acts of destruction, as they form a cultural identity that passes from past generations to future ones.

After disseminating the principle of both tangible and intangible cultural heritage objects, attention will be drawn on the principle of protection, its scope and its subcategories.

b) Defining protection for both tangible and intangible cultural heritage

The meaning of protection refers to the process of ensuring that the value the cultural asset embodies is preserved and treated accordingly, so that it passes from one generation to another. As one can realize, the physical preservation of the asset is an axiomatic concept, which explains that, in order for a cultural asset to be preserved, it must remain intact (in situ protection) because, otherwise, the message it conveys is lost (Forrest, 2009 p.p.3-5).

Apart from protection in situ, the accessibility and visibility of the asset must be protected as well, meaning that, in order for the asset to continue contributing in the conveyance of a strong cultural message, it should be visible and accessible to everyone (Forest, 2009, p.p.3-5, 56-130,224-286).

2. Past legislation on the protection of cultural assets before the adoption of the UNESCO Declaration on the Protection of Cultural Property in Cases of Armed Conflict & the Hague Convention

Introduction

As the main concepts have been outlined, we will now focus on past legislation of protection of cultural objects,(i.e. before the adoption of the legislative texts in force) that were drafted as an aftermath of ancient acts of destruction of cultural heritage.

Examples of Past legislation

As said before, culture is formed by the majority of those in power. Unfortunately, besides unifying people, culture is misused to divide when individuals or groups of people believe that the values that the cultural asset embodies do not correspond to their own. As a result, there are many incidents, especially during war, that destructions of monuments take place, in particular destruction of places of worship. Consequently, leaders of the past have, in many occasions, destroyed cultural objects of significant value and diminished civilizations, that took intangible cultural heritage with them, when extinguished. The need to adopt measures, even in ancient times, against acts of destructions, was indeed dire and many leaders understood that cultural heritage should be respected and preserved, even in times, when the idea of protection of cultural objects, or even the idea behind the term cultural heritage, did not even exist.

Subsequently, leaders of various countries tried individually to adopt legislation in favor of the protection of cultural heritage. For example, the Hindus had implanted

the abovementioned idea of protection of cultural assets in their laws. In particular, although the ancient Hindu law did not use the term “cultural property”, the principle of protection of such cultural assets was in full force. This can be found the *Agni Purana* that is saved until now and is a prototypical legislative compendium (Bugnion 2004, p. 2). Thanks to such laws, historic temples of extreme importance have been preserved until today. Another example is Japan, where the lords would issue ordinances named “*sei-satu*”. These particular ordinances prohibited Japanese troops from destroying temples during wars (Bugnion F., 2004, p. 2).

Similar to this, during the mid-eighteen century, Emer de Vattel (1714-1767) put forward the principle of respecting sanctuaries, tombs and other buildings of cultural significance. In his major treatise, *The Law of Nations or the Principles of Natural Law* , he writes: “*For whatever reason a belligerent plunders a country, he should spare buildings that are the pride of mankind and do not strengthen the enemy. Temples, tombstones, public buildings, and all other works of art distinguished for their beauty; what can be the advantage of destroying them? Only an enemy of mankind can thoughtlessly deprive humanity of those monuments of art, the exemplars of artistry.*” At the end of the Napoleonic wars, the Allies demanded the return of countless works of art pillaged by Napoleon’s armies as they conquered various countries, because the removal of works of art was deemed “*contrary to every principle of justice and to the usages of modern warfare*” (Bugnion F. 2004, p. 2)

Regarding the above, it is of extreme importance to mention that Jean- Jacques Rousseau in *the Social Contract* written in 1772 was the first one to deliver the principle distinguishing between the military forces and equipment of the State on the one hand and on the civilian or state property on the other. According to him, the latter is to be protected and destruction should only occur when it is absolutely necessary(Rousseau Jeans-Jacques, 1772, Book 1, Chapter 1-5). The abovementioned beliefs were stressed out by Henry Dunant, the founder of the Red Cross.

It should also be noted that , after the initiative of Czar Nicolas the II, 15 European States met in July 1874, in order to negotiate over the laws submitted by the Russian government on the protection of artifacts during war times. Consequently, a full legal text was drawn, which focused on the protection of civilian property, in cases of

warfare. In particular, article 17 of the Brussels Declaration of 27 August 1874 stipulated that, if a defended town, fortress or village were to be bombarded, all necessary steps had to be taken to spare, as far as possible, buildings dedicated to worship, art and science (Myerowitz E. M., 1996, p.p. 1965-66). This was the first time the principle of proportionality was induced, regarding the conduct of war. This particular restriction addressed the need to restrict military targets.

Regardless all the adopted laws by different civilizations, the first uniform legislation, that dealt with the issue of the protection of cultural assets in periods of warfare, were the Hague Conventions of 1899 and 1907. More specifically, after the encouragement of Czar Nicholas II of Russia, the First Hague Conference in 1899 was held and tried to reach an agreement, regarding the protection of cultural heritage. Annexed and revised, the 1907 Convention Concerning the Laws and Customs of War on Land, codified international law on civilian property and its protection. According to these rules, in particular article 23(g), it is considered to be forbidden *"to destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war."* *"The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited."* *"The pillage of a town or place, even when taken by assault, is prohibited."* Convention IV included two more articles (art 27 & 56) that stated that *"in sieges and bombardments all necessary steps must be taken to spare buildings dedicated to religion, art, science or charitable purposes, historic monuments, hospitals and places where the sick & wounded are collected, provided they are not being used for military purposes. It is the duty of the besieged to indicate the presence of such buildings or places by distinctive and visible signs, which shall be notified to the enemy beforehand"..... The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property shall be treated as private property. All seizure of, destruction or willful damage done to institutions of this character, historic monuments, works of art and sciences, is forbidden, and should be made the subject of legal proceedings"* (Durand A., 1999). As one can realize, the Hague Convention Respecting the Laws and Customs of War on Land of 1907 established the principle of immunity from seizure of cultural objects, regardless to whom these objects belonged to. Alarmed by the development of air bombardment during the First World War, the Conference on the

Limitation of Armaments, convened in 1922, mandated a commission of jurists to draft rules on air warfare. The commission met from 11 December 1922 to 19 February 1923 and drew up a set of rules aimed at restricting air bombardment to military objectives. Unfortunately, these rules were never ratified and we know the extent of destruction wrought from the air during the Second World War. At the same time, the Treaty of Versailles mentioned for the first time the issue of restitution of indentified cultural assets upon pillage in times of war. The 1949 Diplomatic Conference, which drafted the Geneva Conventions now in force, updated the rules protecting wounded, sick and shipwrecked military personnel, army medical services, prisoners of war and civilians in the hands of the adversary, but hardly revised the rules on the conduct of hostilities (Overview of the Geneva Conventions of 1949 and the Additional Protocols by the ICRC, 2010).

3. Legislation that is nowadays applied regarding the protection of cultural assets

As we have already examined the pre-existing legislation regarding the protection of cultural assets (before World War II), we will now delve deeper into the legislative regimes, that were adopted as a result of the mass destruction of cultural assets after the Second World War.

a) The 1954 Hague Convention

The aftermath of the Second World War made clear that the principles adopted until then were insufficient, regarding massive destructions of cultural heritage. The principle of military necessity, that was explained above, was used extensively to justify any damage happening from small artifacts to whole cities (Forrest, 2010,p.p. 3-5, 56-130,224-286).

This new era, that highlighted the need to adopt a set of new principles regarding the protection of cultural objects, was established in the Nuremberg Trial, which condemned destruction of cultural heritage. In particular, under article 6 (b) of the Military Tribunal of the Nuremberg Trial war crime is considered to be "*a plunder of private or public property, wanton destruction of cities, towns or villages or*

devastation not justified by military necessity" (Forrest 2010, p.p. , p.p.3-5, 56-130,224-286).

As a result to all the above, the 1954 Hague Convention was a swift reaction, which tried to address, not only issues regarding cultural heritage arising during wartime (in particular issues concerning the responsibilities of states during war), but also, to implement responsibilities in the members, even before the beginning of a war. Thus, it tried to impose a permanent regime of protection on the ratifying states (Forrest 2010, p.p.3-5, 56-130,224-286).

The core of the Hague Convention was the protection of cultural heritage, through both negative and positive measures, in times of peace and war, and by all states, that are engaged in the war, meaning states, whose cultural property is at stake and states, which are engaged in armed conflict in the territory of the other state. As one can realize, in order for the Convention to be in force, more than one state has to be involved in a state of armed conflict. However, according to article 18(2) of the Convention it is stated that "*the Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance*". Therefore, no actual armed conflict needs to be taking place in order for the Convention to apply between two or more Member-States (Forrest 2010, p.p.3-5, 56-130,224-286).

Apart from its aforementioned application, the Convention applies also, in cases of civil wars. This is stated in art. 19 (1) of the Convention. (Nazfiger J. A.R., Nicgorski A. M., 2009, p.261).

What is of the utmost importance, is that, through that Convention, for the first time, a special and restricted category of cultural assets of "extreme importance" was created. These cultural assets, according to the convention should be preserved by all means in cases of armed conflict. This regime is being provided in the second chapter of the Convention. It must be highlighted that these particular assets cannot be used even by civilians in cases of present armed conflict. This means that these particular cultural heritage assets cannot be used, even in cases of military necessity. In order for the above to be applied, the cultural heritage asset must be registered in the "*International Registry of Cultural Property under Special Protection*" and a lengthy and complicated administrative procedure has to be followed by the

member state that wishes to apply for its cultural asset (Vadi V., Hildegard E.G.S., Schneider, 2013, p.p. 49-91).

Another innovation of the Hague Convention was the fact that for the first time it recognized the idea of a "*common cultural heritage of all mankind*". In particular, in the third recital of the convention it is stated that "*damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world...preservation of the cultural heritage is of great importance for all people of the world and it is important that this heritage should receive international protection*" (Forrest, 2010, p.p. 3-5), (Vadi V., Hildegard E.G.S., Schneider, 2013, p.p. 49-91).

Apart from new emerging ideas and humanitarian principles, the Convention established for the first time, international condemnation for such actions of destruction, through the adoption of three negative obligations. The first one states that "*each state should refrain from any use of the property or its immediate surroundings for purposes which are likely to expose it to destruction or damage in the event of armed conflict*". As one can realize, this principle is applied when a state tries to protect a cultural asset within its territory, or, when protection is needed upon occupation of another state's territory. The second negative obligation requires the states parties to refrain from any hostile act of destruction against a cultural property asset. What matters is that both these provisions can only be waived when a case of "military necessity applies", meaning, when the party needs to use the facilities of an immovable cultural asset as a military basis or hospital for the wounded soldiers etc. According to the aforementioned article, the third obligation is to refrain from any act of retaliation against a cultural property asset and from pillage of a movable cultural property situated in the jurisdiction of another member party. This obligation cannot be waived in cases of military necessity and is a positive one as well, as it is the first one to address the issue of pillage of cultural property (e.g. the Parthenon Marbles situated in the British museum), (Forrest, 2010, p.p. 3-5, 56-130).

More importantly, the Hague Convention dealt with issues of protection of cultural objects of the occupied territory by the occupants. In particular, these provisions

switched the weight to the occupant so that the latter continues to protect, preserve and safeguard the cultural assets of the occupied by it state (Chamberlain K., 2004, p.p.2 -47).

Generally speaking, the Hague Convention filled many preexisting gaps regarding the protection of cultural assets, by addressing important concerns raised by the unprecedented destruction, pillage and export of them upon occupation. However, the Hague Convention has received much criticism for different aspects of its rules. To begin with, the principle of military necessity was considered to be too vague and as a result, overridden in many occasions. Also, UNESCO failed in its role to act as an impartial third party, capable of ensuring the protection of a cultural asset, as it made it impossible for other states, that had not ratified it, to participate in it. This particular need led to the adoption of the First Protocol of the Hague Convention (Forrest, 2010, p.p. 3-5,56-130).

b) The First Protocol

The First Protocol owes its existence to the inconsistencies and gaps created by the Hague Convention. It mainly focuses on acts regulating the prohibiting of pillage, theft, seizure and illegal export of stolen cultural heritage assets in times of occupation. In particular, article 4(3) requires State members to prohibit and prevent any act of theft pillage or misappropriation and vandalism against cultural assets of an occupied country. The aforementioned provision filled the gap of differences in domestic laws between member states, regarding the provisions of ownership. More importantly, the First Protocol made it clear that neither the Party that is occupied nor the Party where the artifact is found have to have ratified the Convention for it to apply. Case law has proven (Regulation of Armed Offices and Militias within Iraq, 2004) that only the occupying state has to be part of the Convention in order for the artifact to be claimed back (Forrest, 2010, p.p. 3-5, 56-130,224-286).

Overall, the First Protocol constituted a safeguard for cultural heritage as it banned every act that would jeopardize its existence, wholeness and cultural/historical context. Importantly enough, the First Convention was the First regulatory regime that superseded national legislation, in a way that it imposed a uniform law regarding the acquisition of cultural property. Unfortunately, few states decided to

implement this regime. A great example of this is the Netherlands, which failed at first, to seize and return four icons that were illicitly exported from the Turkish section upon occupation of Northern Cyprus and managed to do so, after the new regulatory regime (Stevenson, 2013).

c) The 1977 Additional Protocols to the Geneva Conventions

The first Protocol of 1977

Shortly after the Second World War, a Conference was convened in Geneva in 1949 which was the first one to address acts against barbarity in war. In particular, 4 Geneva Conventions were drafted. Out of the four the last one dealt with issues of protection of civilians during war. However, none of them touched upon the issue of the protection of cultural heritage in wartime. Luckily, the issue of protection of cultural heritage was addressed in 1977 through the adoption of two supplementary protocols to the Geneva Convention. The first one addressed the protection of victims of international armed conflict and of their property while the second dealt with issues of protection of civilians in non-international armed conflicts and of their property. In particular, in both Protocols it is stated that property of civilians can only be used for military purposes and only if the occupation and use of such property will lead to a military advantage. This was considered to be a more precise and explanatory regime than the one of military necessity that was addressed by the Hague Convention of 1954 (Forrest 2010 p.p. 3-5, 56-130,224-286), (Chamberlain K. 2004 p.p.2 -47).

What matters most is that Protocol I, provided a thorough and more specific definition of the principle of military necessity without superseding the Hague Convention, as a state would still be able to invoke the right of military necessity if it had ratified both the Hague Convention and the First Protocol. The first Protocol formed the basis of the protection of the "cultural and spiritual heritage of people" resulting to the adoption of further regimes through the second Protocol of 1999(Chadha N., 2001, Introduction).

The 1999 Second Protocol

As with every previous Convention, the 1999 Protocol came as a result of real problems arising during armed conflict, that pointed out the hiatus of law and the subsequent dire need for the adoption of new regimes. More specifically, the 1999

Protocol followed the destruction of cultural property in the former Yugoslavia, Iran and Iraq and the review of Patrick J. Boylan of the Hague Convention in 1993, which stressed out the failure in the application of the Convention and Protocol and the inherent defects in the international instruments themselves (Boylan, 1993, p. 18, Review). As a result, UNESCO began the process of drafting a supplementary Convention that would replace the existing provisions of special protection with new ones. Subsequently, the so-called principle of enhanced protection was introduced in the regime of the protection of cultural assets (Forrest, 2010, p.p. 3-5, 56-130,224-286).

One of the obligations that the 1999 Protocol introduced was, for each member state, to take a series of measures during peace to safeguard cultural property, including the preparation and removal of movable cultural assets or the in situ protection of such assets and the creation of competent authorities responsible for safeguarding of these assets. This was set out in article 5 of the Protocol, which came to supplement the pre-existing article 3 of the Hague Convention. This particular provision came as a result of secret national regimes of protection during or before the occupation. For example, one month before the war between Greeks and Italians started , on the 11th of November 1940, the Ministry of Culture and Religion of Greece, sensing an imminent threat of armed conflict secretly sent letters to all Greek museums with the title "general guidance on the hiding of cultural assets from possible future air strikes and invasion through air".

An example of successful concealment was the one of Acropolis. In particular, the sculptures of the Acropolis Museum were kept in various crypts in order to avoid seizure. Moreover, a large pit was opened in the Parthenon Hall and divided into three apartments. At the end of January 1941, the pit was filled with sculptures and a cover made of reinforced concrete was constructed(Pashalides, 2014,site).

Apart from the adoption of provisions in favor of concealment and preservation, article 8 obliges parties to remove to the "*maximum extent feasible* " movable cultural objects from the vicinity of military operations. Article 9, also states, that even upon occupation, the occupying territory, or any other member, should refrain from acts of illegal excavation from the soil of the occupied state. This particular provision came as a result to the USA's secret sponsorship of archaeological

excavations in the occupied Iraqi territory, which resulted in the illegal excavation and exportation of cultural objects of extreme importance, among them the infamous Mesopotamian Tablets (Amin, O.S.M. ,2017,)

As a result to the concealment of cultural objects by state authorities in cases of armed conflict, the Second Protocol introduced a concept of enhanced protection. This particular regime stated that state parties can declare which of their cultural assets they consider to be of the utmost importance for their cultural identity. Subsequently, the cultural objects that fall under that category, will receive an enhanced protection compared to other cultural objects. It must be underlined that, even if the regime gives freedom to each state to decide, which artifacts should fall under the category of enhanced protection, still, there is a set of criteria, that have to be fulfilled. In order to be protected under the enhancement regime, the cultural property must meet three conditions: be a cultural property of the greatest importance for humanity, be protected by adequate domestic legal and administrative measures, that recognize its extreme cultural and historic value, which ensure the highest level of protection, and not be used for military purposes or to shield military sites. Also, the abovementioned conditions are assessed by a Committee for the Protection of Cultural Property in the Event of Armed Conflict that was established by this Protocol. Each state can choose their own Committee but, in general, it must be comprised by people qualified in the field of cultural property, defense and international law so that each committee of every country can start from a common basis and every member of each committee contains adequate expertise(Forrest, 2010, p.p. 3-5, 56-130,224-286), (Vadi V., Hildegard E.G.S. Schneider, 2014, p.p. 49-91).

Regarding the principle of military necessity that existed in the Hague Convention, it must be stressed out, that it was revised through the Protocol of 1999. More specifically, article 6 provided that a waiver of military necessity can only be invoked to direct an act of hostility against cultural property and only if and as long as : "*(i) that cultural property has been turned into a military objective and (ii) there is not any other alternative available to obtain a similar military advantage to that provided by an act of hostility against that objective*". These two prerequisites are cumulative(Forrest, 2010, p.p. 3-5, 56-130,224-286), (Vadi V., Hildegard E.G.S. Schneider, 2014, p.p. 49-91) .

But the breakthrough of the Protocol was the fact that, it was the only one, that first touched upon the principle of imposing penal sanctions to countries that breach the provisions of the Protocol and end up committing an offence regarding these cultural assets. It must be noted that, this principle was not touched upon by the Hague Convention, as the legislators of the time were afraid of over-penalizing Nazi behavior, following the multiple convictions of Nazi members in the Nuremberg trial. This was, however, revised and included in the new Protocol, where it was mentioned in article 15 that, any person that attacks an enhanced protection asset, uses it for purposes of military necessity, extensively destroys cultural property, steals, vandalizes and misappropriates it, will be convicted according to criminal law provisions. After the introduction of this provision, the first conviction for mass destruction was being made. In particular, the Tribunal of the International Court of Former Yugoslavia found the commanders of the attack on the Old Town of Dubrovnik guilty of perpetrating a war crime (Gesternblith P., 2016, p.p. 343-345).

d) The 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

Apart from these international instruments, another important regulatory regime, that came into force after the outbreak of the II World War ,was the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

The 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property, established a worldwide norm for the blocking of illegally exported, or stolen cultural property trade. The 1970 Convention tried to focus explicitly on the matter of illicit trade in both times of peace and war. Thanks to article 7 (b) (ii) of the Convention parties now had the responsibility to take steps to recover and return any artifact which was illicitly exported to their territory after the request of another party.

The 1970 Convention raised global awareness regarding the illicit trading of cultural objects by creating a " red-flag list" that contained cultural objects that were stolen or illegally exported and publishing it on its database from 2008, in order to inform traders, museums and private collectors so as they refrain from acquisitioning these objects and fall prey to deception.

The 1970 Convention also, encouraged museums to establish internal Committees and create Guidelines on the acquisition of their collections. These Committees would examine the conditions during the trading for the acquisition of an artifact in their collection and were therefore responsible for the unethical trade with a private collector/another museum etc. Moreover, these Committees were responsible for examining claims of retrieval and restitution of cultural objects. This was a result of the adoption of the provision of plea for the "*Return of an Irreplaceable Cultural Heritage to those who created it*" that was launched by UNESCO through the Convention (Stamatoudi I. A., 2011, p.p. 237-239).

Apart from launching the abovementioned plea, the 1970 Convention was the first one to introduce Alternative Dispute Resolution mechanisms in claims of restitution of cultural objects.

Of course these regimes are not imposed to those that have not ratified it and does not apply retroactively, which is simply problematic.

e) The 1975 World Heritage Convention

The notion of protection of cultural heritage as a whole is not a new concept. However, the World Heritage Convention, which was developed as a combination of the 1970 UNESCO Convention treaty on the "International Protection of Monuments, Groups of Buildings and sites of Universal Value" that was mentioned before and the "treaty for the Conservation of the World's Heritage" by the UN in 1968, was the first one to adopt the principle "that we are one but we are many". This principle was unprecedented, as it stated that, we need to work together in order to overcome imminent threats. Subsequently, the World Heritage Convention was drawn which included important principles of a common fund between state parties. This led to the development of the World Heritage Fund, in which every member state had to contribute an amount of money, so that in cases that a party needed economical help for the preservation of a cultural subject and was not part of the UNESCO Convention, could turn to. Apart from the abovementioned fund, the Convention made a distinction of cultural assets that need to be protected. Also, the Convention explained thoroughly the principle of world heritage by forming a "World Heritage List", under which, monuments, groups of buildings and sites should receive a maximum level of protection, due to their great importance as unique

evidence of vanished civilizations or architectural pieces of a specific era, that are irreplaceable (Operational Guidelines for the Implementation of the World Heritage Convention, Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage, UN, July, 2017).

Unfortunately, as one can tell, the notion of sites, monuments and buildings of universal value was hard to be implemented as it was too vague and generic. As a result, an Operational Guideline was drafted which provided thorough directions on which cultural assets should be falling in this category.

What is of the utmost importance, especially for the research question of this dissertation, is the fact that, for the first time, the Convention stressed out the issue of the creation of a List of World Heritage in Danger. In particular, article 11(4) stated that, in order for a cultural heritage aspect to fall under the scope, it must be under serious and specific dangers. It is crucial that the Committee does not require the consent of the territorial state to list the site on the State list. As a result, even if the country disagrees and decides to destroy, pillage, excavate or steal the artifact, then it will still be sanctioned, even if they never ratified the Convention. A great example of that is the opposition of the government of Nepal to enlist the Kathmandu Valley on the World Heritage List in Danger. Importantly enough, article 22 gives the right to state parties to ask for assistance from the Committee and / or other state parties in cases of an imminent threat of destruction.

f) The 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

The "1995 UNIDROIT Convention on Stolen or Illicitly Exported Cultural Objects" came as an aftermath of the 1970 UNESCO Convention and had as its main goal to harmonize the domestic laws of each member state regarding the provisions of illicit export and restitution. But even if the 1995 UNIDROIT Convention was based on the 1970 UNESCO Convention, it tried to focus more on the recovery phase of an object and not so much in the preparatory phase of banning the illicit trade before it happens. Therefore, the UNIDROIT Convention focused more on the phase after the artifact was stolen and exported.

Importantly enough, the UNIDROIT Convention differentiated itself from preexisting regimes, as it did not require the artifact to be retrieved and declared to be stolen in order for an official claim to be in force (Manganaro A., 2016-2017, p.p. 38-44).

However, it induced the principle of due diligence for both the deprived owner and the new inquisitor. In particular, article 3 stated that, the actual owner, who was deprived of the object, had to start procedures of official claims and recovery, otherwise the object could not be claimed by him, in cases 3 years have passed after the loss or theft, or 50-75 years, in the case of public collections or religious artifacts. Regarding the due diligence of the new acquirer, article 4.4 requires "*that the possessor exercised due diligence if he has asked for documentation (such as catalogue raisone) from the seller regarding the object to be sold, has advised accessible agencies or has taken any other step that shows that he tried to locate if the artifact was stolen and that the seller was the rightful owner*". Only if that applies, then the good faith acquirer can ask for a fair compensation, when he is asked to return the object, according to article 4(1) of the Convention.

Following the example of the 1970 UNESCO Convention, the UNIDROIT Convention, provided the possibility to state parties to use Alternative Dispute Resolution Mechanisms, as a way of a formal claim of Restitution. In particular the 1995 Convention introduced the principle of Arbitration between state parties in article 8.

g) The Rome Statute of the ICC (2000)

After the establishment of the International Criminal Court, new legislation was adopted, that categorized crimes against culture among the war crimes and crimes against humanity. In particular, the need to impose sanctions regarding the destruction of cultural assets was stressed out from the preamble of the Statute, as it was stated "*that all people are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time*". After the adoption of the abovementioned legal statute, the first convictions for art crimes were made possible. One of these was the famous case of Prosecutor v. Slobodan Milošević (ICTY, 2013). The accused was charged with three counts of destruction or damage to historic monuments and institutions dedicated to education or religion, punishable under Article 3(d), and Articles 7(1) and 7(3) of the ICTY Statute ." (Ellis M. S., 2017, Case Western Reserve University). Another famous case was the Prosecutor v. Radovan Karadžić & Ratko Mladić, in which both Karadžić and Mladić were charged under the aforementioned articles for the "*widespread and systematic damage to and destruction of Muslim and Roman*

Catholic sacred sites." (Ellis M. S., 2017, Case Western Reserve University, p.p. 49-52).

However, as Ellis M. S. pointed out in the Case Law Scholar of Case Western University, the ICC only condemned individuals for acts of art destruction and not extremist groups or governments, which has received lost of criticism especially after the rising of ISIS. Besides focusing on individual criminal responsibility, international courts must also prove that there was a "nexus" between the destruction of property and the particular conflict which makes it hard for the governments to sanction individuals, as it is hard to prove that these acts of destruction were a direct consequence of the conflict.

h) Alternative Dispute Resolution Techniques

Introduction to ADR techniques

One can realize that the law provides different and variable solutions regarding the claiming, the blocking of theft or pillage, the prohibiting of destruction and decontextualisation of a cultural object. No matter how various these provisions are, they still fail to solve some everyday issues arising regarding multiple aspects of repatriation, claim, and blocking of destruction. To begin with, in practice it has been considered hard to claim cultural objects that were looted, when there was no regime regarding their repatriation. Consequently, even if such provisions existed afterwards, lodging a formal claim was considered extremely hard, as the law never acted retroactively. But even if that was the case, then in some cases it would be impossible to prove that acts such as the exportation of a cultural asset during occupation, were illicitly done so. In many cases the occupying state has provided the perpetrator with a legitimate certificate of exportation without the consent of the occupied state. In such cases, it is extremely hard for the state to prove that if not occupied they would have never provided such a license of exportation or even to question the legitimacy of such a license, as such a license was of the competency of the occupying state. Another issue arising, is that of the existence of different provisions in domestic laws of each country, regarding the ownership of cultural objects.

Consequently, it has been considered that the ideal approach to resolve such disputes is in finding some common ground and drafting a common agreement,

which can only be achieved with the implementation of Alternative Dispute Resolution mechanisms. In particular, ADR can be conducted either between states, when one state has under its ownership the cultural object of another one and they want to reach common grounds and mutually agree on the repatriation or not of the cultural object, or, between states, when one state resorts to restitution or other ADR Committees, formed by official independent bodies, such as the UNESCO.

ADR between states and bilateral agreements

To begin with, when dealing with ADR between states one must note that, initial difficulties may be surpassed through collaborative approach that can be beneficial to both parties. If the parties realize that they can both benefit from the outcome of ADR, as they can all achieve their claims, then ADR can be conveyed in a more easy, sufficient and fast way than any other form of legal claim. A famous example is the claim that Germany had for the restitution of "the Sammlung 101" by Russia (Bandle A. L., Chechi A., Renold M-A., 2012, p.p. 6,9). ADR techniques have been widely used in claims of Nazi looted art and have enabled heirs to discover their location and begin negotiations through the filling of claims in the competent museum committees. Especially since the official claims of the heirs of Gentili di Giuseppe against the museum of Louvre for the reclaim of multiple paintings, which resulted in the repatriation of five of them, the Louvre has published an official statement, which calls all heirs who have identified their heirlooms being displayed inside the museum to come forward so that they start negotiating (The Telegraph, 2012). As one can see, the fact that museums have come to own illicitly acquired art leads to them having a bad reputation and results in them taking actions to retribute it, by taking preliminary measures of negotiations, in order to transfer ownership to the real owners .

ADR by restitution Committees and UNESCO

One of the keys of ADR is its wealth of possible solutions the states can choose from. ADR enables settlements that do not deal with a defeated party and a winning party but rather with both parties acknowledging each other's different interests. As a result to these vast possibilities of remedies that exceed those of the courts, a party can resort to a competent and independent authority that both parties are members at in cases that they cannot reach a mutual agreement. In such cases, both parties are depended on their diplomatic agents. Also, the independent authority plays the

role of an independent arbitrator. There is also the possibility of the parties to use "*good offices*" to resolve their differences , meaning use third state members that would act as independent mediators, that would help the parties reach a mutual agreement. The principle of " *Good offices*" was set up to negotiate claims that do not fall within the scope of the UNESCO Convention.

Also, in cases of claims of cultural objects, countries have reached a common ground through deciding that the cultural object can be loaned, either for a definite or an indefinite period by the requesting member state . Other forms of resolution can take the form of a cultural collaboration. It should be highlighted, that, under the aegis of UNESCO, an "Intergovernmental Committee for the Facilitation of Bilateral Negotiations" was established, that facilitated parties to reach a common resolution. Furthermore, as highlighted in the abovementioned chapter dealing with UNESCO Convention's regime, the 1970 Convention was the first one that introduced two ADR mechanisms in cases of claims between states. These two mechanisms were Mediation and Negotiated Settlements. It has also introduced the principle of confidentiality, which means that, during and after negotiations, the conversations between the states are confidential and not to be published- contrary to judicial decisions-, which is a huge advantage, as dealers and private collectors do not wish the rest of the people to know that they acquired illegally exported artifacts.

Arbitration measures launched by the UNIDROIT Convention of 1995

As explained above in the Chapter dealing with the existing legislative mechanisms for cultural object claims, the 1995 UNIDROIT Convention tried to launch the arbitration mechanism between parties, in cases that a party wishes to repatriate a cultural object. In particular, article 8.2 states that " *the parties may agree to submit the dispute to any court or other competent authority or to arbitration*" (Shreuer C., 2007, p.p. 9-11).

4. Introduction to real cases of mass cultural destruction; the example of ISIS

From all the above mentioned legislation, one can realize that, when dealing with an eminent destruction of cultural heritage in armed conflict, there are many ways to counterfeit these actions. Theoretically speaking, the Conventions and the Protocols have covered a wide area of possible protections extracted from real case scenarios of destruction in the past. But what happens in practice goes beyond any legislation. Particularly, when taking into consideration specific groups that have risen, such as the ISL (or ISIS), one can realize that there is a dire need to come up with new solutions against acts of destruction. The actions of this particular group, can be better understood if its beliefs and origin, that lead to acts of destruction, can be explained. Apart from all that, this thesis will examine how this group finances its "*sacred cause*", through acts of pillage, illegal export of artifacts and money laundering.

a) Origins of the Terrorist Group

One of the paradigms, under which ADR or any other legislation can prove to be insufficient that this dissertation will focus upon, is the example of the terrorist group named ISIS. One should examine first the historical background and the origins of that particular group, in order to realize the motive behind their actions, regarding mass destruction of cultural heritage.

Historically speaking, in the beginning, the terrorist group self-attributed the acronym ISIL, which stand for "*Islamic State of Iraq and the Levant*", which later came to stand for the "*Islamic State of Iraq and Syria*". ISIS is a Salafi jihadist military group and formerly unrecognized proto-state (Antunez J. C., 2016, Pipes D., 2013). Their ideology is of a strict religious doctrine of Sunni Islam, which gained popularity in 2014, when they occupied Mosul, after a huge massacre and mass destruction of cities. The group has been officially designated a terrorist organization by the United Nations. ISIS is widely known for executions of both military operatives and civilians and its destruction of cultural heritage sites. These acts have made it impossible for the rest of the nations to try and arrive on these

grounds and block the acts of the terrorist group, let alone block acts of massive destruction of cultural heritage (Security Council of the UN, 2017).

b) Causality of destruction and pillage

One can understand, but not justify, the causality of acts of taking of human lives, but, why ISIS proceeds in the destruction of cultural heritage sites or movable cultural assets has raised lots of questions. The answer, of course, is simple and lies within the Sunni dogmatic beliefs of this group. ISIS main goal is the ethnic cleansing, which leads to the so-called Year Zero. The idea behind Year Zero is that all culture and traditions within a society must be completely destroyed, especially ones that are in an opposition with what the extremist group represents (e.g. polytheism or Christianity) and a new culture must replace it . All history of a nation or people before Year Zero is deemed largely irrelevant (Ponchaud Francois, 1978; Year Zero, abstract).

Apart from the belief that is explained above, ISIS uses the cultural assets that oppose its dogma, in order to sell it to museums, private collectors, galleries or auction houses, through employing smugglers. The aforementioned organizations or people are either deceived, as they are presented with forged catalogue raisones, that prove the legal origin of the object, or due to their business run model, tend to turn a blind eye, in order to serve their monetary goals. Due to such acts, ISIS is reported to be the world richest terrorist organization (World Economic Forum Briefing Papers on the State of the Illicit Economy , 2015, p. 5)

c) Examples of destruction by ISIS

This kind of radical beliefs led to the destruction of cultural and historical sites of extreme importance dating back even in prehistoric times. One of the most profound examples of mass destruction was Nimrud, one of the most important Assyrian palaces dating back to 883 BC. As many archaeologists said upon arriving in place when the palace was regained in 2016 : "*There has never been a war on culture as systematic as that fought by Isis. We underestimated how new this degree of artistic barbarity really is*" (Jones J., 2016). Isis are the only extremist group in so far that has presented such an obvious hatred of art. Most conquerors throughout history have at least pretended to love culture, even when damaging it, such as Hitler. (Jones J., 2016). Indeed, mass destruction of cultural heritage by ISIS has been

reported since 2014 in Syrian, Iraqi and Libyan territory. Between the occupation of Mosul in 2014 and February of 2015, it has been reported that ISIS has destroyed 28 historical sites only in the area of Syria (Buffenstein, 2017). What differentiates ISIS from other terrorist groups, is the fact that it has established a special unit called "*Kata'ib Taswiyya*", whose main activity is to select targets for demolition. Such destruction, as mentioned before, has as its main goal the so-called cultural cleansing and the elimination of polytheism, but, also, is a powerful tool to draw attention, as after the destruction, the ISIS members ,that took part in it, upload the video that depicts the destruction, on mass media platforms for the whole world to witness (*see bibliography*).

The greatest example of destruction was of course the ancient city of Palmyra situated in Syria. Upon blowing up the whole city, ISIS released a 87-second video showing parts of the apparently undamaged ancient colonnades, the Temple of Bel and the Roman theatre. Moreover, on 27 June 2015, ISIS demolished the ancient Lion of Al-lāt statue in Palmyra (Buffenstein,2017).

5. Measures that can be adopted against ISIS's actions

Introduction

As one can realize, actions have to be adopted against destruction and pillage or theft that leads to all actors participating in that committing money laundering acts. These initiatives can be divided in two categories; firstly, initiatives that can be taken by states or the European Union as a whole; secondly initiatives that can be taken by Independent Organizations and Committees (i.e. UNESCO).

Initiatives that can be taken by States individually or at a European level

a)Initiatives that can be taken by Departments of Culture of various European Countries for the protection of cultural objects (based on the United States Initiative against destruction)

As a respond to the abovementioned mass destructions, the United States Secretary of Culture John Kerry announced that the Department of State had partnered with the American Schools of Orient Research Cultural Heritage Initiatives to "*comprehensively document the condition of, and threats to, cultural heritage sites in*

Iraq and Syria to assess their future restoration, preservation, and protection needs"
(Danti M., Branting S., Penacho S.,2017, Introduction)

As a result to the aforementioned partnership, a committee was created which fled to occupied territory in order to report and record the damages made for the first time. This led to the drafting of an ever ending catalogue of sites, monuments and movable cultural heritage objects that were reported to be destroyed. This catalogue was attributed the title a "*monumental loss*" and was published and included even on encyclopedias worldwide. (Buffensten A., 2017).

Based on that initiative, countries of the EU can take drastic measures so as to form Committees composed by experts from the Ministries/ Department of Culture that will form alliances with each other and together will go and try to report the damages and try to block on the ground acts of pillage and distraction. At the same time, these Committees will try and educate the citizens of Syria so that they learn to safeguard these aspects and report acts of pillage and destruction or refrain from such acts themselves. It is important to highlight that I propose that the Departments of Culture form alliances, due to the fact that EU countries have already formed a mutual ground of solidarity through their unity. Apart from that, the aforementioned departments could block actions of destruction, through the creation of a cultural heritage coordination body that would raise awareness in cultural heritage protection and enforce legislation against terrorist financing.

b) Educate Military Forces on Syrian Ground and NGOs to take actions against destruction. Establishment of a special Task Force that Guards Immovable Cultural Property

Another action that would block actions of theft, illegal export and destruction would be for each state to educate through seminars and mandatory training military/ task forces that arrive on Syrian ground, so as to take actions against destruction and pillage . Apart from the education of the military forces that arrive on ground, it would be of the utmost importance to establish a task force, whose sole responsibility would be to guard the Immovable Cultural Property of the occupied grounds by ISIS. The aforementioned ask forces would be established based on the guidelines provided by the official report of "*UNESCO 's Committee for the Protection of Cultural Heritage in cases of armed Conflict*" in 2017 .

Another measure would be to carry out seminars, that would educate NGO's that arrive on ground of occupied soil, on how to report destructions of cultural property and try to block them through emergency measures. Since the humanitarian role of NGO's have permitted them to have easy accessibility to both Syrian civilians and grounds that the military can't access, this thesis proposes that NGO's members are educated on how to document artifacts in danger and inform task forces. In that case, military forces would be alerted from the representatives of the NGO's when the status of a cultural object is changed from non endangered to critical and would intervene on ground so as to protect that artifact.

One must note that, the safeguarding of such places can be based on the guidelines set by the project of UNESCO: "*Emergency Safeguarding of the Syrian Cultural Heritage project*", which sets guidelines for the monitoring of the damage of cultural heritage on Syrian soil and the adoption of long term goals so as to restore normalcy on occupied grounds.

c) Form partnerships with Syrian entrepreneurs that can finance the cause of protection of Syrian Cultural Heritage

As it has been clearly understood, actions to battle destruction cannot be successfully carried out if the populace of a nation does not take an active part in safeguarding the objects that form their cultural identity. Apart from that, such actions of safeguarding require funds. A successful way to involve civilians of Syria, so that they learn to safeguard their heritage and at the same time help finance this cause is by forming partnerships between the EU and Syrian entrepreneurs and/or Syrian stakeholders. In that way, Syrian people by financing this cause will help in the safeguarding of the heritage, while learning to respect and preserve their culture and will set an example for the rest of the Syrian community.

d) Use satellites to monitor cultural heritage objects (based on The European Parliament resolution of 30 April 2015 on the destruction of cultural sites)

Another important measure would be to involve satellite's, so as to report on the condition of the cultural heritage sites and inform the military forces on ground when they observe suspicious action near the cultural heritage area. It must be noted that *the European Union Satellite Centre in Torrejón has already been involved, so as to provide material, resulting from the analysis of satellite imagery, for the*

purpose of monitoring and listing archaeological and cultural sites in Syria and Iraq and should support the activities of Syrian archaeologists, with the aim of preventing further lootings;"(lex-europa, 2015). This thesis proposes that countries form alliances so as more satellites are targeted on Syrian grounds and exchange images, so as to assure that no further lootings and destructions are happening.

e) Enhancing the duties of diplomats

It has been proven that such terrorists are hard to be convinced to return a cultural asset or refrain from illegally exporting an artifact , since art selling is considered to be one of the main sources of financing their war. As a result this thesis proposes that diplomats have to pay a very crucial role during the preliminary stage of looting, meaning before the object is derived from its environment, sold and exported. It is up to diplomats to create affiliations and connections with natives, so that they infiltrate these cycles and find out about possible acts of looting. Then, they can be informed about these acts and report them to the Interpol, Europol , their superiors and government and even try to block them through negotiation.

f) Inducing heightened customs screenings in countries that have a history of smuggling stolen artifacts coming from the Middle East

After witnessing the fact that many countries, such as Bulgaria, have a history of smuggling stolen artifacts inside the EU originating from the Middle East, this thesis proposes that states, through mutual cooperation, exchange or reveal adopted mechanisms/ strategies and generally share their expertise, so as to inform other countries on how to battle issues of smuggling. For instance, countries, who have the infrastructures and tools, should advice or even lend their equipment to those countries that lack the funds to acquire such equipment, in order to battle smuggling of art through their customs. Apart from loans of equipment, countries should help each other and educate their custom offices staff, on matters of art smuggling and educate them on how to conduct specialized screenings in search for hidden cultural goods inside the passenger's belongings (Bowker D. W., Goodall L., Haciski R. A., 2016, paragraph Practical Solutions)

g) Strict penalization of museum or Institution committees that have transactions with ISIS, so as to acquire cultural objects coming from Syria illegally. Imposition of penalties similar to being part of the terrorist organization.

Apart from the blocking of the importation, it is of the crucial importance that the individuals or the Board members of the Institutions, that are involved in such acts are sanctioned by the domestic criminal laws as organized crime members of ISIS. In that cases the rules of criminal asset forfeiture will apply. This new regime may be considered to be strict, however it will discourage the art world from engaging in acts of illicit trade. This principle has been applied by countries such as Switzerland and the Netherlands. In particular, according to the Dutch Criminal Code, a person that engages in such activities is convicted as an accomplice of organized crime according to art 36 e lid 1. The same applies in Switzerland with the only difference that criminal asset forfeiture can extend to the bank balances that the member of the organized crime possesses (Daams C. A., 2003,p.p. 86-92). In general, Switzerland has adopted a more strict legal regime, since it has an unregulated goods area at the airport, which in many occasions has been used to smuggle artifacts (e.g. the Giacomo Medici art trafficking scandal, through a warehouse on the unregulated area of the Swiss airport- Brody N, 2015). In my opinion, the regime of Switzerland should be applied since in that way the criminal organization would lose its financial means to continue to commit atrocities (Daams C. A., 2003, p.p.86-92) .

Initiatives that can be taken by Independent Organizations and Committees

a) Enhancing UNESCO's role so that it can take immediate measures on the ground

As we have witnessed on multiple occasions, UNESCO's main role, apart from setting the basic principles for the protection of cultural heritage, is to make recommendations to a country when a war starts, regarding the protection of its heritage and to condemn acts of destructions. This is mainly due to the fact that when established, UNESCO was supposed to act as an external independent legal instrument and not interfere with a state's affairs, as this would lead to confusion and to a wrongful intervention in the country's affairs. Consequently, the recommendations that are produced by it are soft law. However, times have changed and extremist groups have risen that create the need for Unesco to intervene in a more drastic way. In my opinion, UNESCO should enhance its role when it comes to extreme situations,(e.g. in times of emergency). In these

situations, UNESCO should act as an independent committee that superintends the rest of the governmental committees, which deal with the protection of movable and immovable cultural assets. More particular, UNESCO should establish a Committee, which in cases of emergency intervenes and arrives on ground, so as to block actions of destruction. This Committee will be composed by military forces, legal professionals, archaeologists and people with art background, governmental representatives and diplomats.

The enhancement of the role of UNESCO and the establishing of a Committee that will intervene on occupied soil would not be possible without the implementation of a new legal regime that enhances the role of UNESCO and imposes severe sanctions on those who commit acts of destruction. This is the only way to force extremists to comply, as the existing legislation is old and does not depict nowadays society and practices that have risen after the appearance of terrorist groups.

b) Enhance the role of UNESCO or UN so that they have the power to impose mandatory ratification of the legislative texts in force regarding the protection of cultural heritage

Apart from all the above, it is of crucial importance that certain legislative texts, such as the Hague Convention and the UN Protocols, that set the basic principles of protection of cultural assets, are obligingly ratified in States of ancient civilizations, such as Syria. That can be achieved if the UN Nations form a global and independent, from every state, Commission, composed by law experts, that will each and every time decide which laws are to be ratified and induced in the legal system of every country, as these laws will set the basic principles for the protection of the worldwide community and the country itself(e.g. the environment, the culture etc). In order for this to happen these legislative texts will have the force that regulations have inside the EU, therefore they will have a mandatory need for ratification. This Committee will work exactly as the Council of Europe (meaning that it will draft regulations and directives) with the only difference that it will work at a worldwide scale. Only in that way I personally believe that protection for cultural assets can be assured.

c) Establish an Emergency Transport Committee within UNESCO

Regarding both movables and immovable objects, another measure would be to create committees comprised by archaeologists and experts that would move them inside museums of other countries with the provision, that once the emergency situation will be reversed and the country's situation is stabilized, then they will be repatriated. The decision on whether an object should be moved or not shall be made through a list of requirements, such as the geographical proximity of the object to the occupied area, or whether the object is included in the emergency cultural objects list or not. One should argue that many issues would arise, if the aforementioned proposition applied. One of them would be the decontextualisation of the cultural object. Another one would be that once transported to another country to be secured, this cultural object may not be returned or even claimed from the country that served as a host in order to save it.. To these arguments, one could argue that, when an artifact is faced with the threat of destruction, then it is better for it to be temporarily decontextualised. Also, in order to prevent practices of permanent decontextualisation by constitutions and museums, a highly detailed contract of consignment should be made. One should note, that there are precedents of transfer of immovable cultural assets in the past. An example of that is the transfer of the Egyptian courtyard at the Neues Museum of Berlin (Macleod S., Hanks L. H., Hale J., 2012, chapter 21.3).

d) Mandatory Supervision of NGO's by UNESCO

What is more, UNESCO should establish committees that control the activities of NGO's, so that they refrain from engaging in illegal activities and helping ISIS and similar attack groups. In such instances, NGO's would have to report on the committees on the nature of their activities by providing financial statements and data. Consequently, in that way, NGO's will refrain from participating in Money Laundering Acts that help terrorist groups to finance their cause. In addition, enhancing the liability of NGO's and their leading members that arrive on occupied grounds through the ratification of new legal regimes will discourage them from engaging in illegal activities of money laundering and illegal exportation of cultural assets.

e) Show more elasticity regarding the inclusion of a cultural asset as intangible heritage on the UNESCO's official list of intangible cultural property

Concerning the intangible cultural heritage assets that tend to be extinct, especially after the massacre of a civilization, or a genocide, this dissertation proposes that the UNESCO Committee for the Protection of Intangible Objects abates its prerequisites for the induction of an intangible asset on the list, especially in cases of emergency or imminent threat of an elimination of a civilization. Only in that way the intangible cultural heritage will be preserved (Belder L., 2014, p.p. 158-196).

f) Use of the social media by the UN or UNESCO as a powerful tool to promote safeguarding and education of the people through Campaigns

Since the New Social Media are a new interactive tool that has flooded in our lives, it is important that we involve these powerful tools to educate people throughout the world, so as to understand, how much harmful can destruction of a cultural heritage site be. In particular, Instagram can be used as a powerful tool. Through the use of powerful images that show destructed monuments and through the use of hash tags #ProtectThemAll, Instagram can be used to convey a powerful message and educate young people. As a result, young people, not only will report actions of destruction or pillage, but also, they will form a new reality, one that does not even consider destructing cultural objects. A great example of that is the campaign of UNESCO's "#Unite4Heritage" that raised awareness of the importance of cultural heritage that is being destroyed in Syria(lex-europa, 2015), (UNESCO's webpage, news, 2015, anonymous).

g) Enhancing the role and jurisdiction of the ICC

Apart from the enhancement of the role of UNESCO, it is of crucial importance that the provisions dealing the imposing of sanctions by the ICC are revised. To begin with, the ICC should condemn not only individuals who engage themselves in such illegal acts of destruction, but also, groups of people, such as terrorist groups. This would pave the way to the sanctioning of ISIS, as not only leading members, but also, not so active members, would share the same criminal liability with the leaders of the group. Furthermore, the "nexus" principle should be more elastic, meaning that the law shouldn't provide that, in order for the court to convict, the destruction act must be directly linked to the conflict itself. Instead, it would be more practical to induce the principle of " high probability " between the act of destruction and the

conflict. Moreover, the severity of penalties should be enhanced, meaning that the ICC should impose higher fines and induce lifetime sentences. Only in that way, more cases will be brought in front of the ICC, leading in the forming of a strong case law (precedents) that will lead to the fear of commitment of such acts by both individuals and most importantly, terrorist groups. Only if sanctions are imposed to both individuals and organised crime groups, then such acts will be eliminated as higher sanctions will be used to send a strong message that those engaged in the destruction and looting of cultural property will be prosecuted to the full extent of the law (Bowker D. W., Goodall L., Haciski R. A., 2016).

h) Hiring specialized staff in EUROPOL and INTERPOL

Lastly, it is highly suggested that both EUROPOL and INTERPOL employ people that share an expertise in the functioning of dark web. The aforementioned experts will have concealed identities and will comprise a separate department that searches the dark web and informs the appropriate divisions every time an artifact is up for sale.

i) Establishing a new database by INTERPOL and EUROPOL that will contain all the artifacts that are known to be stolen so far by ISIS

In particular, this thesis proposes that INTERPOL and EUROPOL by taking as an example the Red Flag List, or INTERPOL's "Stolen Works of Art" database, should create a new database comprised only by artifacts that were taken from Syrian ground or other territories occupied by ISIS. In that way, this centralized database will gather information on all artifacts that were stolen (e.g. when they were last seen). Individuals, such as private collectors, will have the opportunity to share any possible information they have on the stolen artifact (e.g. if somebody approached them in order to sell the artifact to them). Also, in that way the whole art world will easily access information on Syrian stolen art and will refrain from acquiring such stolen cultural assets (Bowker D. W., Goodall L., Haciski R. A., 2016, paragraph Practical Solutions).

Adding to that, it would be wise to create a global database of stolen artifacts that will help professionals in the field of art to refrain from the acquiring of illegally exported artifacts. A great example of this is the database that will be created with the initiative of UNESCO called Object ID(Manacorda S., 2008, p. 30 par. 4) .This database brings together museums and art professionals to encourage the

implementation of ICOM directives and to exchange information on illicitly exported and stolen art. This thesis proposes that the aforementioned database serves as a pool, in which, museums and auction houses will exchange their know-how on how to check if the artifact to be sold, through them, or exhibited, is of disputed origins and how to report to international bodies, assigned with the protection of cultural property, in cases individuals with stolen cultural goods approach them.

j) Preserving what has been demolished with the help of technology companies

It must be stressed out that terrorism wins, not only if the cultural asset is demolished, but also, if it forgotten whatsoever. This can be overruled if technology companies, that have already the infrastructures and the knowledge to work in documenting cultural property through cultural projects (such as Google through its Cultural Institute Project), work along with the state in which the cultural asset belonged to, in order to recreate virtually the demolished or destroyed cultural asset. Virtual reality technology can be used to create virtual tours inside the cultural asset. In that way, the destroyed cultural asset will never be destroyed in the minds of people and will still, even virtually, try to convey a strong cultural message (Veloza T., Bento L., 2015, par. 11).

Conclusion- The step beyond

The critical discussion above, regarding the moral principles and examples of protection that led to the drafting of the existing legislation for the protection of cultural heritage in cases of the imminent threat of destruction or decontextualization by extremist groups proved, that both new regimes and practices have to be implemented. Most importantly, these practices have to reflect the new illegal activities that terrorist groups, such as ISIS, engage in. Only if we acknowledge the need to implement new measures, since we are currently failing in protecting our cultural heritage against terrorists as ISIS, then we can nurture our hope that the world community will eventually find ways to overcome acts that lead to the destruction of our cultural identity. It is only in that way that we can move in the direction of an effective international cooperation. All that needs to be done is that we take the step beyond.

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Appendix

-Financial Task Force Strategy n Combating Terrorist Financing

Combating terrorist financing has been a priority for the FATF since 2001. However, in 2015, the scope and nature of terrorist threats globally intensified considerably, with terrorist attacks in many cities across the world, and the terrorist threat posed by the so-called Islamic State of Iraq and the Levant (ISIL/Da'esh), and by Al-Qaeda and their affiliated terrorist organizations, and by other terrorist organizations also becoming more significant. In December 2015, the FATF agreed that further concerted action urgently needs to be taken to strengthen global counter-terrorist financing regimes to combat the financing of these serious terrorist threats, and contribute to strengthening the financial and economic system, and security.

Today, FATF's work focuses on five key areas, set out in detail in a FATF Consolidated Strategy on Combating Terrorist Financing . In February 2018, the FATF adopted a new counter-terrorist financing operational plan and a statement on the actions taken under the 2016 counter-terrorist financing strategy.

- Improve and update the **understanding of terrorist financing risks**, in particular the financing of ISIL/Da'esh
- Ensure that the **FATF Standards provide up-to-date and effective tools** to identify and disrupt terrorist financing activity
- Ensure **countries are appropriately and effectively applying the tools**, including UN Targeted Financial Sanctions, to identify and disrupt terrorist financing activity.
- Identify and take measures in relation to any **countries with strategic deficiencies for terrorist financing**
- Promote more **effective domestic coordination and international cooperation to combat the financing of terrorism**.

(source: terrorist financing; FATF's strategy on combating terrorist financing, published on fatf-gafi.org, section: FATF general- documents)