



**AS/Cult (2014) 36 rev**

9 December 2014

Or. English

## COMMITTEE ON CULTURE, SCIENCE, EDUCATION AND MEDIA

### **Cultural heritage in crisis and post-crisis situations**

Rapporteur: Ms Ismeta DERVOZ, Bosnia-Herzegovina, Group of the European People's Party

#### **Draft report**

##### **A. Draft resolution**

1. The Parliamentary Assembly of the Council of Europe notes with high concern that deliberate eradication of culture, identity and existence of the “other” through a systematic destruction of cultural heritage has become a central component of modern conflicts that are ethnically driven, featuring the use of paramilitary forces, and are rarely preceded by a formal declaration of war. This change challenges the application of relevant international legal instruments, including the Hague Convention on the Protection of Cultural Property in the event of armed conflict (1954) and the Geneva Convention relative to the protection of civilian persons in time of war (1949) and its protocols (1977). The Assembly believes that the protection of the cultural heritage during and immediately after a conflict is a human rights issue and should involve international responsibility.

2. Conflict resolution and reconciliation are complex processes which may take several generations. They require sensitivity to engage first in tolerance building and peaceful coexistence before moving towards trust building, acceptance and cooperation. The Assembly underlines that restoration and reconstruction of the built cultural heritage and raising awareness of its “common value” (its intrinsic, cultural and historic value to all communities) are a very important element in conflict resolution.

3. The process of reconstruction of cultural heritage has a strong potential for reconciliation and building of social cohesion, but it can also be misused to re-ignite division and hatred. The Assembly therefore asserts that a sound political, legal and judicial framework is essential to set a basis for confidence building measures in post-crisis recovery.

4. Accordingly, the Assembly recommends that the member States of the Council of Europe, concerned by the crisis and post-crisis situation:

4.1. sign and ratify the Council of Europe Framework Convention on the Value of Cultural Heritage for Society ( “Faro Convention”) and the European Landscape Convention if they have not yet done so, and develop national strategies for restoration and reconstruction of cultural heritage consistently with the principles laid down in these conventions;

4.2. depoliticise the process of reconstruction of cultural heritage and create necessary conditions for independent technical committees to work without pressure from political and/or religious authorities, to avoid imposing heritage reconstruction policies based on ethnicity and religion and to ensure instead a non-discriminatory, impartial heritage protection regime;

4.3. as a first stage, during and immediately after the crisis, integrate cultural heritage into emergency humanitarian programmes, and in particular:

- 4.3.1. take ownership of the cultural heritage and its diversity, not devolving responsibility to external aid agencies;
  - 4.3.2. undertake damage assessment of cultural heritage and establish coherency between immediate humanitarian aid (for example UNHCR standards for shelter and housing) and heritage requirements;
  - 4.3.3. include damaged built heritage in emergency repair programmes, especially buildings which can provide shelter for the displaced population, while making use of appropriate methods (authentic materials and techniques) for their restoration and reconstruction;
  - 4.3.4. incorporate destroyed built heritage in the recovery programmes for towns and villages, using all available heritage records and encouraging local communities to contribute to this process;
  - 4.3.5. preserve the identity of a place and protect areas where built heritage has been deliberately targeted and destroyed against any temporary or permanent construction except restoration of damaged buildings;
  - 4.3.6. preserve from deterioration, by urgent remedial works, other damaged built heritage which is not suitable for its integration into emergency programmes;
- 4.4. as a second stage, strengthen public institutions and governance and define the framework for restoration and reconstruction of cultural heritage, and in particular:
- 4.4.1 review legislation and planning control systems, and strengthen monitoring mechanisms to ensure high technical standards in restoration and reconstruction and avoid threats from uncontrolled development, disrespectful of local heritage;
  - 4.4.2. link restoration and reconstruction of cultural heritage with the return of refugees and displaced persons;
  - 4.4.3. develop national programmes for restoration and reconstruction of damaged or destroyed cultural heritage as part of a broader national strategy for cultural heritage; involve the international organisations and donors in this process;
  - 4.4.4. encourage the setting up of participatory structures, such as local cultural heritage forums, based on the principles of open dialogue, transparency and accountability to develop local cultural heritage plans; and engage in wide public consultation to identify priorities;
  - 4.4.5. in the assessment of post-crisis areas include in the production of inventories consideration of the values and significance of cultural heritage, beside technical information on the condition of a cultural heritage site;
  - 4.4.6. preserve authenticity and respect all layers of history in the restoration and reconstruction process to maintain a sense of place and history of original heritage sites;
  - 4.4.7. in addition to iconic monuments, give due consideration to other local heritage sites of vernacular architecture including their urban or natural landscape context to avoid fragmentation of communities and loss of identity;
- 4.5. as a third stage, consolidate the reconciliation process and develop sustainability of projects, and in particular:
- 4.5.1. ensure that short-term project-led reconstruction does not take precedence over a longer-term, broad strategy for sustainable development;
  - 4.5.2. engage in participatory processes and public consultation to integrate local heritage plans into socio-economic development plans;
  - 4.5.3. develop local heritage management plans focusing on use, activities, funding, partnerships and community involvement to ensure that, where feasible, the site becomes over time self-sustaining “living heritage”;

4.5.4. use the process of restoration and reconstruction of cultural heritage to build capacity and skills, to build partnerships across sectors (education, tourism, media, economy) and to raise awareness of its “common value” (its intrinsic, cultural and historic value) to all communities;

4.5.5. undertake certification of crafts, training and accreditation to stimulate local employment;

5. The Assembly urges international and national donor organisations to assist the institutions of the recipient state at national and local level to take ownership of the cultural heritage and to establish together common objectives and priorities based on a non-discriminatory, impartial cultural heritage protection regime, giving particular attention to the preservation of local cultural identity and diversity of cultural heritage; and abide by those principles.

6. The Assembly invites the Congress of Local and Regional Authorities of the Council of Europe to promote co-operation, exchange of expertise and practical experience between local and regional authorities, in order to successfully manage restoration and reconstruction of cultural heritage as a key element in the processes of post-crisis recovery and reconciliation.

7. The Assembly recommends that all member States of the Council of Europe, in cooperation with the United Nations and other relevant organisations:

7.1. consider reviewing and strengthening the provisions of the Hague Convention on the Protection of Cultural Property in the event of armed conflict (1954) and the Geneva Convention relative to the protection of civilian persons in time of war (1949) and its protocols (1977), providing for more robust pre-emptive protective mechanisms, and stronger sanctions, including reparations, for militarily unnecessary destruction; acknowledging that such destruction is not just an assault on built fabric but also upon what it means and upon the community which it serves;

7.2. consolidate legally the notion that systematic, deliberate and targeted destruction and looting of cultural property can be charged as a crime against humanity and develop further mechanisms to bring perpetrators before national and international courts.

**B. Draft recommendation**

1. The Parliamentary Assembly of the Council of Europe, with reference to its Resolution ... on *cultural heritage in crisis and post-crisis situations*, stresses the importance of “common” cultural heritage and its enshrined values as key factors in the process of sustainable reconciliation and conflict resolution, fundamental to the well-being of communities and the peaceful coexistence of people with different cultural, ethnic and religious roots.

2. The Assembly considers that reconstruction within a socially-rooted vision is a development challenge and that guidelines for pre- and post-crisis actions should be developed. These should take note of the “Seven Pillars for Post-War Reconstruction”: vision, participation, security, reconciliation and justice, equity, reconstruction and development, and capacity.

3. The Assembly therefore recommends that the Committee of Ministers instruct the Steering Committee for Culture, Heritage and Landscape, in cooperation with UNESCO, UNHCR, the European Union, ICOMOS and other relevant international and national aid agencies to:

3.1. draft guidelines for protection and reconstruction of damaged or destroyed cultural heritage as part of a broader strategy for preserving cultural identity and diversity in crisis and post-crisis situations to be used by national and local authorities as well as international donor organisations;

3.2. provide support for member States to exchange good practices based on the guidelines as well as on standards and principles of the Framework Convention on the Value of Cultural Heritage for Society and provide assistance to member States in implementing these provisions.

## C. Explanatory memorandum by Ms Dervoz, rapporteur

### 1. Origin, scope and objective of the report

1. On 30 September 2013, the Bureau of the Parliamentary Assembly of the Council of Europe referred to our committee for report the motion for a recommendation on culture preservation in crisis and post-crisis situations (Doc. 13277) which I had presented with twenty seven other members of the Assembly on 4 July 2013. The committee appointed me rapporteur on 3 October 2013.

2. In cooperation with the Council of Europe Directorate General for Democracy (DGII), we organised a working meeting on 22-23 July 2014 in the Council of Europe office in Sarajevo with several experts<sup>1</sup> who have been working on field projects in the framework of the DGII Technical Co-operation and Consultancy programme for South East Europe, and with experts who took part in projects undertaken in Cyprus, Georgia and Azerbaijan.

3. I wish to particularly thank Dr John Bold for his help and expertise in the preparation of this memorandum.

4. My report will focus on built<sup>2</sup> (architectural and archaeological) cultural heritage, while considering heritage to be part of a wider cultural context which can create positive conditions for (re)building more cohesive societies in post-crisis situations with enhanced levels of tolerance, trust and intercultural dialogue.

5. Culture and cultural heritage are difficult to define. Various definitions of culture<sup>3</sup> and cultural heritage<sup>4</sup> exist at the national level as well as in international instruments. But, definitions notwithstanding, the identification and meanings of cultural heritage (together with frequently associated terms of community and identity) gain greater substance and authority through threat: crisis provokes recognition.

6. The cultural heritage is recognised as a source of positive social cohesion and shared values when it is at risk but equally it can easily become a contested focus for negative actions and assault. Following the destruction of cultural property in the Second World War, the Geneva Convention<sup>5</sup> stipulated that civilian objects should not be the object of attack or reprisals, and that attacks in war should be limited strictly to military objectives; and the Hague Convention<sup>6</sup> emphasised the protection of cultural property, preparing in times of peace for its safeguarding, undertaking to protect it from exposure to destruction or damage during armed conflict, obligations which may only be waived in the event of military necessity.

7. Following war or crisis, discussion on how to reconstruct has tended to focus on whether to rebuild in contemporary or historicist styles – modernity or tradition – or in a hybrid manner in which new forms, accommodating new services, respect traditional appearances. But reconstruction is not only concerned with the visible; it concerns also the immaterial, intangible values which are enshrined within the tangible built heritage, as well as the rebuilding of the social fabric of institutions, relationships and trust.

8. Reconstruction is not always positive: it may be an aggressive act of reassertion of values, witnessed

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<sup>1</sup> Ms Lejla Hadzic, Ms Amra Hadzimuhamedovic, Ms Michael Jansen, Mr David Johnson, Ms Marieke Kuipers, Dr Rob Pickard, Mr Sali Shoshi and Mr Ali Tuncay.

<sup>2</sup> Referred to as monuments, groups of buildings, and sites by the Council of Europe Convention for the Protection of the Architectural Heritage of Europe (Granada Convention, 1985); see also the Council of Europe Convention on the Protection of the Archaeological Heritage (Valletta, 1992).

<sup>3</sup> The preamble of the Universal Declaration on Cultural Diversity (UNESCO, 2001) reaffirms that culture should be regarded as *“the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs”*.

<sup>4</sup> The Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Faro Convention, 2005) provides a recent and very contemporary definition of cultural heritage: *“The cultural heritage embodies a group of resources, artefacts and practices inherited from the past which people identify independently of ownership as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions.”* (art. 2).

<sup>5</sup> The Geneva Convention (1949 and 1977) stipulates that civilian objects should not be the object of attack or reprisals, and that attacks in war should be limited strictly to military objectives. Furthermore, it is prohibited to commit any acts of hostility against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples (Arts 52 & 53).

<sup>6</sup> The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954) lays emphasis on the protection of cultural property, preparing in times of peace for its safeguarding, undertaking to protect it from exposure to destruction or damage in the event of armed conflict; obligations which may only be waived in cases of military necessity (Arts 2-4).

not only by the victims of the original violence but also overseen by the perpetrators. Following crisis, mechanisms and resources are required to reconstitute the built fabric in its broad context (cultural, social and environmental) so that the peace does not prolong the social, cultural and environmental damage of the war.

9. Finally, public participation is vital, but post-crisis, institutions may not be trusted and responsibilities may not be best discharged by the people who are themselves suffering.

10. Therefore I should like to focus my report on the following key issues:

a) how to help local people change their (negative) perceptions of the culture of “others” (i.e. members of other racial, ethnic, religious or cultural groups)?

b) how to increase democratic participation in the context of public responsibilities for the cultural heritage?

c) how to preserve the identity and diversity of cultural heritage, while meeting the pressing need for restoration and reconstruction, ensuring that short-term project-led reconstruction does not take precedence over a longer-term, broad strategy for sustainable development ?

d) how restoration and reconstruction of cultural heritage could become a positive factor for reconciliation and restoration of the society and economy and in particular, in the context of ethnically-driven conflict, how the dispersed population may be encouraged and enabled to return ?

e) how to establish a more balanced relationship between external partners which support projects targeted to cultural heritage and the local actors with longer-term needs, ensuring that short-term projects are conducted within the framework of a sustainable strategy and that greater attention is paid to the views and aspirations of local people ?

11. Considerations of these issues should be at the core of restoration and reconstruction strategies. A further question would be which policy action the Council of Europe, the European Union and UNESCO could take to ensure proper consideration of the cultural heritage in these strategies and provide support and guidelines to national authorities.

## **2. Culture and cultural heritage as a target of conflict**

12. The built heritage was a target during conflict in the Second World War with irreparable damage to cities throughout Europe. In a spirit of remembrance of suffering and the promotion of forgiveness a new cathedral was built at Coventry in dialogue with the preserved ruins of the old. In Dresden the ruins of the Frauenkirche initially remained as a war memorial before total reconstruction was completed over half a century after the end of the war. In the wars in the former Yugoslavia, the deliberate destruction of Albanian tower houses (kullas) in Kosovo,<sup>7</sup> the shelling of Dubrovnik in Croatia, and in Bosnia and Herzegovina the gutting of the Town Hall in Sarajevo, the destruction of the Mostar bridge, the destruction of the Čaršija Mosque at Stolac, among numerous other religious monuments of all denominations, have all prompted restoration and reconstruction re-affirming cultural identity and restoring places as far as possible to the former familiar appearance which encourages the return of the displaced.

13. Conflicts have generally led to the loss of large numbers of historic buildings. For example in Bosnia and Herzegovina 2,771 historic buildings were partially demolished or damaged, 713 totally destroyed, 554 set on fire. In Kosovo\* more than 200 mosques (one third of the total number) were damaged or destroyed; of 1200 kullas (traditional tower houses), only 200 survived. The destruction of monuments or other symbols of a way of life in many cases was an assault upon the cultural identity of a people or a population, a systematic action describable as “urbicide”. In Bosnia and Herzegovina, the small town of Stolac had one of the greatest concentrations and diversity of cultural heritage in the region until it was systematically destroyed. Its reconstruction and the defining of post-war development plans have been an integral part of the complex process of the return of refugees and the displaced.

14. Cultural heritage (linking identity to place) is also looted during war and destroyed or looted afterwards either for financial gain or to inhibit communities from returning and again recognising this place as their place. In Cyprus hundreds of monuments have been partially or completely destroyed, with an incomparably

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<sup>7</sup> \*All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United National Security Council Resolution 1244 and without prejudice to the status of Kosovo.

rich material cultural heritage dispersed around the world. The establishment in 2008 of the bilateral Technical Committee on Cultural Heritage in Cyprus demonstrates that members of both Greek and Turkish communities, have an understanding of the value of their shared cultural heritage and a desire to work together to maintain and restore it. The bilateral Technical Committee has surveyed the monuments in both the north and south of the island, has embarked on educational programmes, and has with European Union support made emergency restorative interventions on churches, mosques and such other major monuments as the Othello Tower in Famagusta.

15. It is stated in the Geneva Convention (1949/1977) that civilian objects should not be the object of attack or reprisals in war, and the Hague Convention for the Protection of Cultural Property (1954) emphasises its protection except in the event of military necessity. The Second Protocol to the Hague Convention (1999, entry into force 2004) gave renewed impetus to the need to protect cultural property and to establish enhanced systems to do so. The recognition in the Protocol of the International Committee of the Blue Shield<sup>8</sup> as an international advisory organisation with the necessary expertise<sup>9</sup> to recommend specific cultural property to the committee established through the Protocol gave additional authority to its activities. The Protocol recommended the preparatory measures to be taken in times of peace against the foreseeable effects of armed conflict: inventories, measures against fire or structural collapse, removal of movable cultural property, and the designation of competent authorities for safeguarding cultural property. Such property would be afforded enhanced protection if it were deemed to be “of the greatest importance for humanity”, protected by adequate legal and administrative domestic measures, and not used or intended to be used for military purposes.

16. In the event of violation of the principles of the Protocol, making cultural property under enhanced protection the object of attack or subject to looting during armed conflict of both international and non-international character,<sup>10</sup> each party to the Protocol was enjoined to “*adopt such measures as may be necessary to establish as criminal offences under its domestic law the offences set forth... punishable by appropriate penalties*”. Although parties should apply the general principles of international law, the Protocol does not suggest that offences should come before international courts.

17. I believe that this legal framework is not sufficient and we should consider strengthening existing conventions, providing for more robust pre-emptive protective mechanisms, and stronger sanctions, including reparations, for militarily unnecessary destruction, acknowledging that such destruction is not just an assault on built fabric but also upon what it means and upon the community which it serves.

18. Since offences against cultural property during armed conflict are unlikely to come before domestic courts if the perpetrators remain in power or the courts are otherwise intimidated or merely cautious, there is a case for policy makers and commanders of warring parties to be charged before international courts for the targeted destruction of cultural property. It is perhaps ironic that the ‘Blue Shield’ labelling of sites of enhanced protection might have encouraged the recognition of those sites (such as Dubrovnik) as potential targets, provoking aggressors into destructive action.

19. The expert reporting to the International Criminal Tribunal for the Former Yugoslavia noted: “*the destruction of cultural property ... can be charged as a crime against humanity, and the intentional destruction of cultural and religious property and symbols can be considered as evidence of an intent to destroy a group within the meaning of the Genocide Convention*”.<sup>11</sup> This is an important acknowledgement that the protection of heritage is a humanitarian issue.

20. When campaigns are anticipated, populations may be evacuated, works of art removed and protective fire-fighting organised, as occurred in London during the Second World War. But it is often the ordinary heritage which suffers most. Before it can be protected the built cultural heritage must be identified. Therefore, inventory programmes and more thorough documentation are required.<sup>12</sup> This is not just a

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<sup>8</sup> The emblem of the Hague Convention.

<sup>9</sup> Derived from its members, who include representatives of ICOMOS, the International Council on Monuments and Sites, and ICOM, the International Council of Museums.

<sup>10</sup> Excluding riots.

<sup>11</sup> United Nations (expert Farida Shaheed), Second report of the independent expert in the field of cultural rights, Human Rights Council, 2011.

<sup>12</sup> But in compiling inventories we should guard against those who might use them to identify targets, and vary levels of access to data. Full surveys of major monuments may inhibit attacks upon them if it is thought that such records might lead to reconstruction, negating the physical destruction of the building, if not the impact of the attack. But it must be acknowledged that it is difficult always to predict what is important as priorities change – all inventories and assessments should be viewed as dynamic, mutable documents.

question of listing the obviously important historic buildings; rather it is a question of looking also at those ensembles of buildings in their context which encapsulate the sense of place with which local people identify. This requires public consultation and the opportunity for all citizens to make an appeal for a heritage which matters to them, as occurs in Bosnia and Herzegovina. Inventory programmes and more thorough documentation are required,<sup>13</sup> including assessments of significance: such assessments will influence the prioritisation of future reconstruction in the event of crisis or disaster.

21. Since protection depends on public acceptance, programmes of education and publicity are required to highlight the significance of the cultural heritage. Such education should be promoted not only in schools, colleges and universities but also through exhibitions and in the mass media, including the internet.

22. Crisis planning and risk-assessment in advance of crises will identify responsibilities and likely activities within civil society, with an emphasis on administrative and emergency services, all of which should know the extent of the cultural heritage, likely targets and risks. The Second Protocol to the Hague Convention refers to the preparation of guidelines on procedures for its implementation, enjoining the signatories also to incorporate guidelines and instructions on the protection of cultural property within military regulations. But such planning and procedural guidance is not just a task for the professional services or the military. We might propose the establishment of task forces attuned to cultural heritage, comprising officials and lay members, including students. By drawing on the knowledge of a wide range of people, and encouraging media involvement, we would broaden not only our understanding of what constitutes the built cultural heritage but also greatly increase the numbers of people who understand the shared responsibilities for its care. Task-force-led local heritage plans created with full public participation would potentially have wider than crisis-driven impacts, shifting the emphasis towards positive management and funding independently of crisis.

23. The measures to be taken in the event of natural disaster – the legal and administrative framework, financial and insurance measures, education and training to improve risk awareness, risk assessment and disaster prevention and mitigation – are covered in detail in Council of Europe R(93)9 on the protection of the architectural heritage against natural disasters. These measures should be reviewed in this context with a view to identifying the further potential vulnerabilities to which the built heritage might be subject in cases of targeted armed conflict, and the strategies to be adopted to mitigate them.

### **3. Cultural heritage as the victim of the reconstruction process**

24. Following crisis there is a need for damage assessment, emergency and long term treatment (with appropriate guidance on techniques), and social and physical rehabilitation, acknowledging the four overlapping periods of disaster recovery and the length of time that each one will take: the emergency period, dealing with the immediate problems of dead, injured, homeless and missing people; the restoration period, restoring the major services; the reconstruction period, returning social and economic activities to pre-disaster levels; and the commemoration and betterment period serving future growth and development.<sup>14</sup> Post-crisis or disaster mechanisms should be drawn up in advance by national authorities so that actions and responsibilities can be clear.

25. Reconstruction may be an aggressive act as well as a positive response to crisis. The rapid reinstatement of planning controls and heritage management after crisis is a priority, with collaboration between development and heritage authorities and full public consultation. This will require the empowering of institutions and the restitution of the legal system in order to develop the national sustainable strategy in which individual projects should be nested.

26. In the case of religious buildings, a multi-faith approach is desirable. In Cyprus, the Apostolos Andreas monastery is being reconstructed as part of the joint cultural heritage of both Greek and Turkish Cypriots, funded by the Cyprus Orthodox Church and the Muslim Evkaf: in this regard, clerical establishments are working together to promote respect and reconciliation.

27. During war, systematic action is required to integrate the built heritage into emergency humanitarian operations if irreversible change or loss to historic buildings is to be avoided: emergency repairs using inappropriate materials have had a very damaging effect in Bosnia and Herzegovina. In cases in which damaged historic buildings are to be used for emergency accommodation, at a time when it is perhaps not

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<sup>13</sup> As outlined in Council of Europe Recommendation R(95)3 on co-ordinating documentation methods and systems related to historic buildings and monuments of the architectural heritage.

<sup>14</sup> J.E. Haas, R.W. Kates and M.J. Bowden (eds), *Reconstruction following disaster*, Cambridge and London 1977, pp xxvii-xxviii.

possible to effect full and proper repairs, remedial works should be reversible so that a full restoration can be carried out when stability has been restored. Similarly, damaged buildings which do not have an alternative use should be preserved from further deterioration – making roofs watertight, boarding up windows and doors – pending later restoration.

28. How to reconstruct the built fabric, in contemporary or historicist styles requires international guidelines which could be led by the Council of Europe as noted by the European Conference of Ministers responsible for cultural heritage 2001. Note should be taken of potential positive and negative outcomes: building anew signifies a new beginning but may result in transformative styles and forms taking precedence over the familiar; building in an historicist style signifies continuity and reinstatement of identity but threatens the integrity and authenticity of the heritage and its embodied values: modern materials may be in conflict with intended older appearances. But the key to successful reconstruction is the recognition of the scale and character of the place which should assume priority over issues of contemporary or historicist style. The identity of the people and the community as it exists in the post-conflict period should be a prime factor in assessing reconstruction needs and appearances.

29. It is a truism in established conservation practice that all layers of history should be respected in the fabric of a conserved historic building. How this might be achieved in cases of radical conversion or reconstruction requires site-specific debate, engaging all stakeholders, since functions, populations and perceptions are bound to change. Following interventions, the results should be reviewed to assess the process and the outcome. What are the implications for example of the instauration (renewal) of the Monastery church of St Clement in Ohrid, the former Yugoslav Republic of Macedonia? This new church was completed in 2002 on the site of a 10<sup>th</sup> century church which had been demolished and replaced by a mosque which was itself subsequently demolished.

30. New, often illegal building on the territories of former Yugoslavia, Cyprus and South Caucasus has resulted in a reconstruction which threatens the historical and architectural integrity of settlements. A clear vision of how people think places ought to look is needed, underpinned by regulation, information, financial incentives and sanctions against illegal or unauthorised actions. The post-war pressure of development often exploits the gap between the end of crisis and the re-establishment of legal systems and their implementation, as has occurred in Kosovo\*. Planning, permission procedures and sanctions are urgently needed post-crisis, with temporary emergency powers pending the full restitution of civil authority drawn up within the context of a strategic environmental assessment. This should be not purely restrictive but enabling with incentives – owners and occupiers of buildings have rights as well as responsibilities.<sup>15</sup> An independent inspectorate, monitoring and enforcing, may be required in situations in which corruption and intimidation inhibit due legal processes.

31. The desire for new, well-insulated properties militates against restoration of historic buildings which are perceived as old-fashioned and inefficient. A better correlation of planning and heritage priorities is needed with better incentives for owners who must be shown the positive economic performance of historic buildings (for example in the case of vernacular architecture). In this context, non-governmental organisations (NGOs) often reach individual owners rather more effectively than the national institutions, since they are better able to speak directly to individuals and offer disinterested advice. Cultural Heritage without Borders (CHwB) in both Kosovo\* and Bosnia and Herzegovina, and in their participation in the Transylvania Trust's project Heritage without Borders, Heritage at Risk in South-East Europe, identifying buildings at risk and arranging "heritage surgeries" through training and advice at grassroots level, has demonstrated the success of a direct approach in advising owners what the regulations allow, and how historic buildings might properly be repaired.<sup>16</sup> Such NGOs should be seen as essential partners to official national and local institutes as well as to such international bodies as the Council of Europe and the European Union which tend to intervene at a high political level, directing their activities in concert with national governments.

32. The repair or reconstruction of mosques damaged or destroyed in Bosnia and Herzegovina and Kosovo\* raises questions about funding and agency: Saudi funding favours the austerity of Wahhabi Islam over the decorated interiors of the Balkans. Funding bodies should be subject to national planning and protection requirements, and should be prevented from imposing an imported, alien vision. International

<sup>15</sup> Although in many cases in the post-communist period the ownership of properties is unclear or complex.

<sup>16</sup> Cultural Heritage without Borders (CHwB) has worked also with young professionals in the western Balkans in fulfilment of its well-phrased motto "We restore and build relations". Regional restoration camps bring together a diverse range of participants with a variety of ethnic and professional backgrounds to work on conservation, preserving traditional crafts and techniques, and educating the next generation of specialists while raising awareness of the value of the common heritage both to economic development and the overall quality of life.

agencies also should note that the imposition of an internationalist agenda is not always appropriate: in Cyprus, the European Commission, as the main donor, has attempted to influence practices by laying emphasis on religious buildings, but local secular priorities are now being asserted. In Stolac in Bosnia and Herzegovina, the internationally-funded and conducted restoration of one hundred traditional houses ignored their special features in the rebuilding, so causing a lasting obstacle to the restoration of the destroyed cultural memory.

33. It is important that national authorities should keep close control of interventions from both internal and external sources, and impose uniform rules of engagement. This is not always easy – there are said to be 1,700 organisations involved in Bosnia and Herzegovina – but nevertheless control and monitoring are required, rather than ceding responsibility to other governments or government-sponsored agencies: works should be licensed and monitored, following national regulatory procedures and technical standards. It should also be recognised that such buildings as churches and mosques have a community and heritage significance beyond their function as places of worship, so decisions on their repair or reconstruction should not rest solely with the religious authorities. In Bosnia and Herzegovina the lack of funding and the weak legal system resulted in foreign donors channelling aid through UNESCO and NGOs: Turkey, Indonesia, Saudi Arabia and Jordan funded the restoration of mosques; Greek and Serbian Orthodox Church sponsored the reconstruction of orthodox churches, indicating “the politicisation of the process and the purchase of national political agendas”.<sup>17</sup>

34. Stronger legislation, sanctions and incentives are needed to ensure local control over reconstruction and investment so the local needs are not over-ridden by international funding agencies or commercial imperatives, building confidence and capacity so that the risks of slipping into a culture of intellectual and financial dependency are avoided. The Council of Europe/European Commission Integrated Rehabilitation Project Plan/Survey of the Architectural and Archaeological Heritage (IRPP/SAAH) and subsequent Ljubljana Process<sup>18</sup> on rehabilitation of the built heritage and its context provides a good example of this, giving ownership and choices back to the countries themselves, rather than having international agencies determining priorities for funding. The creation of seven Local Cultural Heritage Forums in Kosovo\* with representatives from central and local institutions and civil society is a further successful example of how heritage can facilitate dialogue and engage the public in a consultative process. This has resulted in the selection of numerous projects for restoration of sites, urban regeneration and cultural tourism.

35. There is often an economic crisis and loss of jobs after conflict, so when international funding comes in, attracted by crisis, it is difficult to risk jeopardising it by suggesting alternative modes of approach, particularly since the money arrives in the immediate aftermath of war when the country is too disorganised to usefully direct it. So assessments of rehabilitation needs and costs should look beyond the existing situation towards the potential for growth, not only in tourism and its related services, but also the potential for industry and agriculture in the region, bringing back the basic components of growth in order to benefit local people.

36. In the rush to reconstruct, competing agencies and revitalised institutions pursue their own agenda, but collaboration and agreement between them is vital if mutually desirable outcomes are to be achieved. It has long been a finding of the Council of Europe’s Technical Co-operation and Consultancy programme that the failure of institutions to collaborate, or even to acknowledge each other’s responsibilities, lies at the heart of many heritage-management problems, notwithstanding the call in the Council of Europe’s Amsterdam Declaration (1975): “*the conservation of the architectural heritage should become an integral part of urban and regional planning, instead of being treated as a secondary consideration*”.

37. As the case of the reconstruction of Stolac (Bosnia and Herzegovina) demonstrates, the maintenance or restoration of built heritage and its enshrined values is not just a matter for experts. The memories, photographs, perceptions and desires of local people are all fundamental to both the maintenance of continuity of cultural heritage and its restitution after crisis or disaster. This is not a job just for those who are professionally engaged with heritage management; rather, those who are so engaged should ensure a widening of the constituency of interests.

38. A failure to collaborate is not just a domestic problem. For example, in Kosovo\*, international bodies have failed to pragmatically adjust their expectations. In the reconstruction of five new kullas, the otherwise desirable space standards imposed by UNHCR for new buildings required the demolition of the remains of

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<sup>17</sup> T.Kostadinova, ‘Aid for the reconstruction of cultural heritage in Southeast Europe: a peace-building model?’, The Jean Monnet Papers on Political Economy, 02/2013.

<sup>18</sup> The “Ljubljana Process II: Rehabilitating our Common Heritage”, Council of Europe and European Commission Joint Programme: [http://www.coe.int/t/dg4/cultureheritage/cooperation/see/irppsaah/ljubljanaprocessii\\_EN.asp](http://www.coe.int/t/dg4/cultureheritage/cooperation/see/irppsaah/ljubljanaprocessii_EN.asp).

others on the site. But elsewhere local and international funding has been successfully deployed by Cultural Heritage without Borders (CHWB) in rebuilding kullas and in organising training and capacity building for local institutes.

39. In Kosovo\* the destruction of Serbian Orthodox heritage in 2004 could be interpreted as a view of it as 'other', denying the notion of a "common heritage".<sup>19</sup> In being composed of Kosovo\* Albanian, Serbian and international experts, the Reconstruction Implementation Committee, organised by the European Union with Council of Europe participation, and dedicated to repairing and reconstructing the churches, offered a model for post-crisis collaboration, but the work was left incomplete when the Kosovo\* government halted funding, raising questions about the will to reconcile. Similarly the creation of Special Protective Zones established through the Comprehensive Proposal for Kosovo\* Status Settlement, and enshrined in the recent planning and heritage laws, has not so far fulfilled its intention "to provide for peaceful existence and functioning of sites to be protected": the process of reconciliation is long, with many stops and starts.

40. The care of the heritage is both a national and international responsibility which should override political divisions and short-term imperatives. The failure to resolve the Cyprus question, for example, has resulted in difficulties to implement conventions in the northern part of the island. Furthermore, in Kosovo\* there is no contact with the International Council on Monuments and Sites (ICOMOS)<sup>20</sup> since the territory is not recognised as a state<sup>21</sup>. The principles of the Faro Convention<sup>22</sup> are social rather than political: they should be re-emphasised and promoted through publicity and education and accorded a supra-national status which would allow for implementation notwithstanding the manoeuvres within sovereign states which characterise transient, quotidian politics. For example, all member States which are in a position to assist Cyprus with cultural heritage restoration and reconstruction projects, should integrate in the implementation of such projects the principles of international conventions, including the Faro Convention.

#### 4. Culture and cultural heritage as factors for conflict resolution/reconciliation

41. There are examples which show that cultural heritage can be a tool for reconciliation: in Bosnia and Herzegovina, the reconstruction of the Mostar Bridge was intended to symbolise international solidarity and reconciliation. It is now as a result carrying much greater symbolic weight than it ever had before: the image of the bridge has become a ubiquitous symbol. Conceived as a finite project achieved through international funding of 11.5 million USD, the bridge and the rehabilitated towers to either side are testimony to the power and reach of international agencies, but also to the shortcomings of such interventions. The short-term, finite projects with readily measurable outputs, favoured by international funding bodies are not part of the long-term national strategies, with full community involvement, which fully sustainable reconstruction requires.

42. Although Cultural Heritage without Borders (CHWB) has led the reconstruction of two bazaars of shops and cafes near the Mostar bridge, a further fine group of handsome buildings of c.1900 a short distance away remains ruined, the outer walls still standing but the interiors gutted. Full sustainability here (and elsewhere) will require a better understanding of the sense of place and what constitutes it. The iconic monument certainly plays a part and may act as a catalyst for further interventions but the whole still requires treatment that must be supported by a return to functioning institutions which have the power to enforce regulation and, in the case of Mostar in Bosnia and Herzegovina, prevent the burgeoning tourist industry from physically swamping the bridge and its environs and so compromising the intrinsic qualities which draw tourists in the first place.

43. We must build strategies based on the perspectives of local people rather than on the preconceptions of international bodies. If cultural difference has prompted the initial crisis, physical reconstruction is not enough. It must be supported through consultation, education and demonstrably positive socio-economic outcomes: positive outcomes encourage further activity. International actors and donors need to commit themselves to longer programmes beyond the restitution of single iconic monuments, although these

<sup>19</sup> The idea of the "common heritage of Europe" is composed of two inseparable elements: the *cultural* heritage, which represents a resource and a source of collective memory for people in Europe; and the shared *intellectual* heritage of an agreed set of social values, rooted in history, which form "the European ideal" in terms of how society should operate. The mutually-supporting interaction of these two elements constitutes a unifying theme of the Faro Convention. Cultural heritage offers reminders of Europe's often troubled history, during which lessons have been learned towards the current consensus on values in society. Those values in turn lead to agreement on the existence of shared responsibility for elements of the cultural heritage. This European perspective comes particularly to the fore in respect of cultural heritages which fail to fit neatly within modern political boundaries.

<sup>20</sup> <http://www.icomos.org/en/>.

<sup>21</sup> 108 United Nations (UN) member states have issued diplomatic recognitions, including 23 out of 28 member states of the European Union.

<sup>22</sup> [http://www.coe.int/t/dg4/cultureheritage/heritage/Identities/default\\_en.asp](http://www.coe.int/t/dg4/cultureheritage/heritage/Identities/default_en.asp).

programmes may then be broken down into the finite, achievable projects which demonstrate success and encourage continuation. Successful projects engender public support and encourage further investment. But these international actors must be subject to national and local regulation and input since reconstruction is not just physical. It is not possible to build sustainable peace and common memory simply by importing foreign reconciliation policies and mechanisms.

44. The intention behind restoration and reconstruction in the countries of the Western Balkans has been to demonstrate a return to normality, re-affirming cultural identity and restoring places to their former familiar appearance, so encouraging the return of the displaced. But it is unrealistic to expect people to return quickly to live near their former oppressors. Reconciliation takes time: forced return or time-limited return are both inadmissible.

45. The (Dayton) General Framework Agreement for Peace in Bosnia and Herzegovina devoted its Annex 8 specifically to the cultural heritage. It recognises the importance of cultural heritage for the entire process of post-war reconstruction, allowing for full public participation in evaluating that heritage. But in its strength, isolating heritage as a special case, there is an inherent weakness, since the heritage should not be separated from post-war recovery as a whole which has many other requirements to be satisfied: the development of a spatial planning system; the return of displaced persons; the establishment of secure conditions; the establishment of a legal and judicial system; prosecution of perpetrators; the clearance of mines; the development of the education system; economic development; media development and the growth of an information society.<sup>23</sup>

46. The rehabilitation of built cultural heritage<sup>24</sup> presents a focus and stimulus for the memorialisation – public remembering and recording – which is part of the recovery process. Post-crisis social public engagement is a prerequisite for regaining moral and social well-being and ensuring not only a sustainable future but also an enduring collective memory, materialised in the cultural heritage – the “shared source of remembrance” to which the Faro Convention refers (art.3).

47. The reconstruction, long after the event, of sites of pain and atrocity indicate ways in which the process of commemoration, education and narrative is influencing the perception of cultural heritage and historical places. The partial reconstruction of former Nazi concentration camps in the Netherlands, and the building of national centres of commemoration, enable people to learn about the past and to share some echoes of the war and conflict with the hope that they will not happen again. After the Second World War the majority of people wanted to forget and make a fresh start, but a later generation wishes to tell the story and show what happened: this too is a long-term process.

48. Conflict resolution requires the unbiased teaching of history and acknowledgement of the multi-voice of the past, since a focus on one interpretation over another or a refusal to discuss and seek to explain contested recent history results in a failure to understand and value the cultural heritage of all. Cultural heritage is a major factor in the establishment of inter-cultural dialogue: multi-faith collaboration, education in history and the finding of common ground are all fundamental to the development of mutual trust and the building of confidence. The involvement of young people in this virtuous circle is especially important. Children in Kosovo\*, for example, are now being made aware of the diversity of their cultural heritage and the need to understand and respect the cultural heritage of others – through the children, the message reaches the parents.

49. The IRPP/SAAH and subsequent Ljubljana Process in South-East Europe<sup>25</sup> has been exemplary in its partnerships and projects, bridging divisions in building citizenship and reviving economic activity with local and tourist benefits. Working together is a major element in reconciliation but it must be seen to result in beneficial socio-economic outcomes for local people and visitors. It is fundamental to youth in particular that they feel that they have a stake in society, contributing to it and benefitting from its development. Unemployment and exclusion from the processes of civil society prompt the damaging disaffection and alienation which leads young people to acts of disruption or to seek a better life elsewhere, both of which are undermining of the notions of social continuity and community.

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<sup>23</sup> Faro Framework Convention, art. 14.

<sup>24</sup> An analysis of disaster recovery has identified four overlapping periods, in which each of the three periods after the first lasts approximately ten times longer than its predecessor. The rate of recovery is directly related to the extent of damage; the available recovery resources; the prevailing pre-disaster trends; qualities of leadership, planning and organisation: emergency period, restoration period, replacement reconstruction period and commemorative period (see footnote 14).

<sup>25</sup> Idem, [http://www.coe.int/t/dg4/cultureheritage/cooperation/see/irppsaah/ljubljanaprocessii\\_EN.asp](http://www.coe.int/t/dg4/cultureheritage/cooperation/see/irppsaah/ljubljanaprocessii_EN.asp).

50. The activities of the Council of Europe Technical Co-operation and Consultancy programme since 1975 have helped to strengthen co-operation between member states through cross-border and transnational projects and have played a key role in post-conflict reconciliation and rehabilitation in South-East Europe and the Caucasus. In Georgia, restoration and reconstruction following the conflict in 2008 has been a priority not only to accommodate the inhabitants and to ensure the conditions for the return of the displaced, but also to preserve the spirit of communities, shifting the heritage emphasis from monuments to villages, from the monumental to the everyday built heritage. In this process, lay opinion should be enlisted onto conservation advisory committees, alongside that of experts: the involvement of local stakeholders in identifying projects for rehabilitation will have a beneficial impact on the sustainability of those projects.

51. Conservation is a process as well as a technical activity, having the potential to bring members of the community closer to the notion of heritage. A current initiative in Albania, Bosnia and Herzegovina and Kosovo\*, "Make it Yours", aims to engage stakeholders from all walks of life in conservation tasks: preparing traditional paint and painting facades, hewing beams and plastering walls. It should be noted however that such work requires close supervision to ensure quality control, since a similar student-led exercise in Bulgaria required repainting the following year.

52. International pressure should be applied to governments to commit to action plans and compel them to honour and implement commitments which they have made: cultural heritage is not a luxury to be paid for after the building of hospitals, schools and roads; it is fundamental to our humanity. Existing institutions should be better empowered to take action against neglect and assault on cultural heritage. Guidelines and rewards for best practice are needed for cultural heritage management and community involvement in our new world order of globalised economic disruption, scarcity, targeted destruction and consequent social disintegration and loss of confidence.

## 5. Conclusion

53. Cultural heritage is fundamental to sustainable conflict resolution and the well-being of society. Restoration and reconstruction of cultural heritage after crisis is a political act but not solely the responsibility or concern of politicians, since they are acting on behalf of, and in concert with civil society as a whole.

54. Reconstruction involves looking forwards as well as backwards. Cultural heritage can prompt and facilitate conflict as well as having the potential for reconciliation. Reconstruction is also potentially capable of re-igniting conflict. Much depends upon who is in control of the reconstruction process: the continuation in power of those who were in charge during the period of conflict does not facilitate reconciliation and the return of the displaced. Since reconciliation might take generations to achieve, should we be considering the staging of reconciliation - maintaining it as a long-term ambition - but beginning with the simple aim of peaceful co-existence, followed by building constructive dialogue and trust, as first steps along the way?

55. Moreover, the nature of modern conflict, particularly civil or ethnically-promoted war, often conducted without a formal declaration of war, is in contradiction to the rules and assumptions about its conduct which were taken as a basis for the Geneva Convention and the Hague Convention, both drafted and agreed upon in the aftermath of the Second World War. As we have seen in the conflicts in the Balkans in the 1990s, the built heritage, together with the civilian population, has become the target of violent actions, rather than the accidental victim of collateral damage: "*architecture in the twentieth century has become more and more, a weapon of war rather than something that gets in the way of its smooth conduct*".<sup>26</sup>

56. In such circumstances, we need new guidelines and new instruments designed to address the protection and reconstruction of the cultural heritage, noting that in 2001 the fifth European Conference of Ministers responsible for the Cultural Heritage called for the establishment of "principles for the reconstruction of damaged or destroyed cultural monuments and for fostering regular maintenance of cultural heritage"? The consideration of attitudes towards the built heritage before, during and after conflict may act as a catalyst for a wider consideration of heritage in society and its treatment: neglect and general deterioration are also important issues.<sup>27</sup>

57. Reconstruction does not stand alone as a series of finite rebuilding projects; rather it should be carried out within the context of a democratically developed national policy framework to facilitate local development and cohesion of local community, integrated with programmes for the sustainable return of refugees and displaced persons. Such projects should therefore involve local society as a whole. Major efforts are needed in post-crisis situations to reconstitute life in the community independently of monuments: crisis-recovery is

<sup>26</sup> Robert Bevan, "*The Destruction of Memory: Architecture at War*", 2006, page 210.

<sup>27</sup> See PACE Resolution (2014)1981 and Recommendation (2014) 2038 on "Europe's Endangered Heritage".

about people, their physical and social well-being, and confidence in the shared idea of a common good.

58. The post-crisis “interpersonal deficit”, the loss of trust, dignity, confidence and faith in others – social cohesion – has been described as the most far-reaching outcome of conflict, so distinguishing the needs of post-conflict reconstruction from those of post-natural disaster reconstruction. Reconstruction within a socially-rooted vision is a development challenge and guidelines for pre- and post-crisis actions are therefore urgently required. These should take note of the “Seven Pillars for Post-War Reconstruction”: vision, participation, security, reconciliation and justice, equity, reconstruction and development, and capacity.<sup>28</sup>

59. Guidelines should build also upon such existing instruments as Council of Europe Recommendation R(93)9 on the protection of the architectural heritage against natural disasters (1993), and take into account the OECD guidelines, *Helping Prevent Violent Conflict* (2001); the ICOMOS Ohrid Declaration on the protection of cultural heritage in the event of armed conflict (2002)<sup>29</sup>; the UNESCO Strategy for Reducing Risks from Disasters at World Heritage properties (2007)<sup>30</sup>; and the UNESCO Vienna Memorandum on World Heritage and Contemporary Architecture (2005), which urged an understanding of place as opposed to object buildings only, noted the need for comprehensive survey and analysis as a way of expressing values and significance, and stressed the need to respond to development requirements by allowing for contemporary architecture while respecting the inherited townscape and landscape.<sup>31</sup> This recalls one of the fundamental considerations of the Council of Europe’s Amsterdam Declaration (1975): since the new buildings of today will be the heritage of tomorrow, every effort must be made to ensure that contemporary architecture is of high quality.

60. Furthermore, the Council of Europe’s report on Reconstruction of Built Heritage (CDPAT(2003)27) urged collaboration between national and international organisations to establish a plan of action to be taken in the event of destruction of the built heritage, including a process for determining the candidacy of a site for reconstruction. This is still required. Additionally, the key initiatives, the achievements and methodologies of the Technical Co-operation and Consultancy programme should be better publicised.

61. Taking the above into consideration, I firmly believe that we need clearer guidelines for addressing policies and practice relating to the heritage in crisis and post-crisis situations and stronger affirmation of principles, and in particular:

- affirming the Faro Convention as a ground-breaking document on the role of cultural heritage in supporting the principles of human rights and democratic society and encouraging its further ratification as an essential contribution to managing diversity, the development of democratic participation and the improvement of the living environment and quality of life of all Europeans;
- recalling the principles of integrated conservation as described in the Amsterdam Declaration (1975), including citizens’ participation and the integration of the architectural heritage into social life;
- acknowledging that access to cultural heritage is a fundamental human right and that a cultural identity expressed by a community is a political act based on a collective memory;
- developing the notion that systematic, deliberate and targeted destruction and looting of cultural property can be charged as a crime against humanity and developing further mechanisms to bring perpetrators before national and international courts;
- taking a lead on guidance on reconstruction and the associated rehabilitation of societies, paying regard to the various strategies which may be adopted for reconstruction and giving precise definition to terms in use (reconstruction, restoration, rehabilitation, culture, cultural heritage, cultural identity, etc.);
- recognising that the reconstruction of the built cultural heritage is a fundamental component of the post-crisis development process normalising society by re-establishing and maintaining the living and developmental potential of communities, responding to the needs and desires of the people;

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<sup>28</sup> See S.Barakat, ed., *After the Conflict – Reconstruction and Development in the Aftermath of War*, 2010.

<sup>29</sup> The Ohrid Declaration, which was agreed at the Macedonia ICOMOS Urgent Regional Workshop, Cultural Heritage at Risk in the Event of Armed Conflicts, 2002 (Proceedings published 2004), considered the activities required before, during and after armed conflict. The potential relevance of these in creating guidelines should be considered.

<sup>30</sup> Promoting heritage as part of sustainable development and placing risk management within overall management plans.

<sup>31</sup> Implicitly ruling out inappropriate, non-contextually sensitive, wilfully iconic trophy architecture which might tempt international funding agencies with a computer-generated vision of a seductive future.

- taking note of the need for continuing and targeted education on cultural heritage, paying due regard to the media expectations of the audience;
- taking steps to improve national legislative and management regimes, and encouraging better resource allocation, so enabling due regard to be paid firstly to the identification of cultural heritage in need of protection and secondly to its restitution in the event of crisis;
- promoting a holistic approach to cultural heritage as a fundamental element and responsibility of a sustainable democratic society which should take ownership of the cultural heritage, not devolving responsibility to external aid agencies;
- taking steps to increase the collaboration of the international bodies, pooling expertise, giving a greater force and authority to Conventions and pronouncements. With a view to ensuring adequate support and guidance to national authorities, the Council of Europe should initiate discussions with the European Union and UNESCO on improving the instruments required for crisis and post-crisis heritage management and reconstruction and on the development of further guidelines for broader heritage policy and practice to be applied in post-crisis situations.