

The appeal of the Moscow Florentine Society, the Interdisciplinary Center for Legal Philosophy at the Institute of Philosophy of the Russian Academy of Sciences, Russian Association of International Law, Chamber of Advocates of the City of Moscow, International Union (Commonwealth) of Advocates, and other organizations to the public representatives and municipal administration of the City of Florence, and to the Legislative Assembly of the Region Tuscany

ON THE NECESSITY OF A NEW UN CONVENTION BASED ON THE IDEAS OF THE ROERICH PACT

Nikolay Roerich came up with the idea of Peace Pact (later to be called the Roerich Pact), setting the prevalence of protection of cultural property over the considerations of military need. Besides, the Pact also obligated each signatory state to adopt domestic legislation directed at protection of art objects in time of peace.

Roerich kept reiterating that the Treaty for the Protection of Artistic and Scientific Institutions and Historic Monuments (the Roerich Pact) was only the initial stage of changes in the state and social priorities first to lower and eventually to almost completely eliminate any danger of armed conflicts. Then, according to him, the humankind might be able to experience the true Renaissance of Thought and Spirit that people had been dreaming of for many millennia.

Despite all the profundity and importance of Roerich's ideas, they would have been standing on bookshelves next to utopian works of other remarkable thinkers had he not achieved the adoption of his Pact in 1935 by 21 states (which in that time constituted about 35 percent of all independent nations). This memorable event subsequently exerted a decisive impact on the adoption in 1954 of the UN Convention for the Protection of Cultural Property in the Event of Armed Conflict, currently signed by 128 states (over 60 percent of all independent nations). However, this UN Convention, while having inherited the Roerich Pact idea to establish a system of international protection of cultural property, still failed to accept its core point that culture had the highest priority, thus having surrendered to the dominance of “military need,” devoid—to make it worse—of any precise legal definition.

The approaching 90th anniversary of the Roerich Pact, gives us an opportunity to quietly and concurrently discuss several serious challenges of our time.

No one would argue that the most crucial ideas of the Roerich Pact fell outside of the UN Convention for the Protection of Cultural Property in the Event of Armed Conflict.

This is admitted in the very text of the UN Convention which says: “In the relations between Powers which are bound by the Washington Pact of 15 April,

1935 for the Protection of Artistic and Scientific Institutions and of Historic Monuments (Roerich Pact) and which are Parties to the present Convention, the latter Convention shall be supplementary to the Roerich Pact.” So, from the content-related standpoint, the Convention mentions “supplement,” and this confirms none other but a *broader* application of the Roerich Pact.

The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and the UN conventions, regulating the activity of UNESCO, were adopted almost two decades apart, and therefore they demonstrate noticeable gaps in matters of law enforcement. But protection of culture against destruction as a result of armed conflicts is a task too important to go without serious efforts to imbue these UN documents with the weight they deserve. In our opinion, the time has come to eliminate the conceptual inaccuracy introduced during creation of the text of the 1954 Hague convention when the international community took a step back in comparison with the ideas of the Roerich Pact of 1935 and refused to subordinate the so-called “military need” to the interests of protection of culture. Without restoration of this great idea to its international rights, the process of formation of culture protection mechanism in the UN will remain inadequate to the severity of challenges faced by the UN in the 21st century.

Recently, one of the main topics discussed by UNESCO was the correlation between the 1954 Hague Convention—with its supplementary Protocols—and the later UNESCO documents on the protection of cultural heritage. Another equally challenging topic was the possibility of joining the resources of these international documents together. So, the correlation between the Second Protocol to the Hague Convention and the relevant UNESCO documents was discussed in detail at the 2010 Fifth Conference of the UNESCO Committee on Protection of Cultural Property in the Event of Armed Conflict.

(UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANISATION COMMITTEE FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT FIFTH MEETING (UNESCO HEADQUARTERS, 22-24 NOVEMBER 2010, ROOM XII); ITEM 8 OF THE PROVISIONAL AGENDA: SYNERGIES BETWEEN THE SECOND PROTOCOL TO THE HAGUE CONVENTION AND OTHER RELEVANT UNESCO INSTRUMENTS AND PROGRAMMES).

For the 7th Conference of the Committee, Belgium prepared proposals to strengthen the synergy between the 2nd Protocol (1999) to the 1954 Hague Convention and the 1972 UNESCO Convention. These proposals noted that the definitions of cultural heritage utilized in the Hague Convention and the UNESCO Convention were not identical. The proposals also made provisions for optimization of the cultural heritage lists compilation process, thus allowing the countries to include objects of cultural heritage in both—the Hague Convention and the UNESCO Convention—lists at the same time. The report on the progressive development of synergy between the 2nd Protocol (1999) and the 1972

Convention was prepared for the 8th Conference of the Committee in December, 2013.

(COMMITTEE FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT; Seventh meeting; UNESCO Headquarters, Paris; 20 to 21 December 2012; Item 5 of the Provisional Agenda: Proposal to Strengthen Synergies between the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict and the 1972 World Heritage Convention (prepared by Belgium). 3 C. 3. 4

COMMITTEE FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT; Eighth meeting UNESCO Headquarters, Paris; 18-19 December 2013; Item 6 of the Provisional Agenda: Progress report on the development of synergies between the 1999 Second Protocol and the 1972 World Heritage Convention).

The aforementioned actions for finding better ways of interaction between the conventions' "tool kits" should certainly be met with approval. The instruments, provided by the 1954 Hague Convention, allow to protect the objects of cultural heritage, included in the combined list by UNESCO, more effectively. The concerted decisions of the 8th Conference, held by UNESCO in December, 2013, were published on March 20, 2014. Objective analysis of this document shows that development of the international legal mechanism for protection of cultural property in the event of armed conflict has strayed onto a conceptually wrong path. The attempts to establish synergy (interaction) between the existing UN conventions for protection of cultural property indeed progress extremely slowly, without any hopes for success. Now, it is necessary to make a conceptual decision on preparation of a new UN convention based on the key provisions of the Roerich Pact.

Taking this into account, it is highly desirable to develop a new combined international document – the unified UN convention for the protection of cultural heritage in the event of armed conflict which should embody the ideas of the Roerich Pact concerning the unconditional protection of cultural property and the precedence of protection of culture over military need. Such convention should make UNESCO the head organization for the worldwide protection of culture, delegating UNESCO all power and authority for protection of historical monuments and scientific institutions.

It is high time to eliminate the conceptual inaccuracy allowed during creation of the text of the 1954 Hague Convention when the international community took a step back in comparison with the earlier ideas of the Roerich Pact (1935), thus turning away from the principle of subordination of military need to the interests of protection of culture. Without due restoration of this great idea to its international rights, the process of formation of culture protection mechanism in the UN will remain inadequate to the severity of challenges faced by the UN in the 21st century.

The objective of the new movement for introduction of the ideas of the Roerich Pact is to stress the need for returning to the principles of the Roerich Pact and for encouraging the world community to participate in preparation of the draft of a new convention. “In strict observance of this Pact by the people of the world we see a possibility for broad implementation of one of the vital principles – preservation of the modern civilization. This treaty possesses a spiritual significance far deeper than the text of the instrument itself,” said the U.S. President Franklin D. Roosevelt when signing the Roerich Peace Pact on April 15, 1935.

It is Florence and Tuscany that make the best venue to proclaim a new movement for returning to the ideas of the Roerich Pact and embodying them in a new UN convention for the worldwide protection of cultural heritage.