THE MEMORANDUM OF UNDERSTANDING BETWEEN ITALY AND UNESCO ON THE ITALIAN "UNITE4HERITAGE" TASK FORCE

MARINA MANCINI

(published in Italian Yearbook of International Law, vol. XXVI-2016, pp. 624-629)

In the last few years, Italy has been actively engaged in international efforts aimed at reinforcing the protection of cultural heritage in response to the unprecedented destruction and looting of cultural sites carried out by the Islamic State in Syria and Iraq and associated or similar groups in other countries. As a part of these efforts, on 16 February 2016, Italy concluded a Memorandum of Understanding with UNESCO on the “Italian National ‘Task Force in the framework of UNESCO’s Global Coalition Unite4Heritage’ […] for initiatives in favour of Countries facing emergencies that may affect the protection and safeguarding of culture and the promotion of cultural pluralism”.

The Memorandum was signed by the Italian Minister of Foreign Affairs and International Cooperation, Paolo Gentiloni, and the UNESCO Director-General, Irina Bokova, in Rome, in the ancient Baths of Diocletian, and it entered into force upon its signature.

The agreement at issue is an absolute novelty in the relations between UNESCO and its Member States. It relates to the creation by the Italian Government of a national task force of specialised personnel available for deployment abroad for the protection of cultural heritage affected by armed conflict or natural disaster. The above-mentioned task force was to be set up in the framework of UNESCO’s Global Coalition Unite4Heritage, a worldwide initiative which was launched by the UNESCO Director-General in June 2015 in Bonn, during the annual meeting of the World Heritage Committee, in order to strengthen the mobilisation of Governments and actors outside the cultural field in the face of the recent large-scale destruction and pillage of cultural heritage in conflict areas, especially in the Middle East. It was to consist of cultural heritage experts and members of the Carabinieri Command for the Protection of Cultural Heritage, who were to be coordinated by the Ministry of Culture and Tourism, with the participation of the Ministry of Foreign Affairs and International Cooperation, the Ministry of Defence and the Ministry of Education, University and Research.

Under the terms of the Memorandum, Italy may deploy the said task force on the territory of another UNESCO Member State facing armed conflict or natural disaster, upon the latter’s request. Once deployed, the Italian task force may undertake the following activities: assessment of damage and risk to cultural and natural heritage; assistance in adopting and implementing urgent safeguarding measures for affected cultural and natural heritage; assistance in transferring movable cultural properties at risk to safe havens; provision of technical supervision and training on the implementation of emergency

1 The text of the Memorandum of Understanding is available at: <http://itra.esteri.it/).

2 On the same day, Gentiloni and Bokova also signed an Agreement between Italy and UNESCO on the establishment in Turin of the International Training and Research Centre on the Economics of Culture and World Heritage (ITRECH), a centre under the auspices of UNESCO (Category 2). The text of the Agreement is available at: <http://www.beniculturali.it/mibac/multimedia/MiBAC/documents/1455616428119_3b_Agreement_Italy_versione_Italia.pdf>.

preparation and response measures for the protection of cultural and natural heritage; and fighting against the plundering and illicit trafficking of cultural objects.  

When performing the above-listed activities, it may use the name “Italian National Task Force in the framework of UNESCO’s Global Coalition Unite4Heritage”, with the prior written authorisation of UNESCO. As to the expenses for the deployment of the task force and the performance of the aforementioned activities, it is stipulated that they shall be covered “when required and within the resources available” by Italy.

The Memorandum is intended to implement Paragraph 4 of Resolution No. 48 adopted by the UNESCO General Conference at its 38th Session, on 17 November 2015. By this resolution, the General Conference adopted a Strategy for the “Reinforcement of UNESCO’s action for the protection of culture and the promotion of cultural pluralism in the event of armed conflict” (para. 1), and it invited Member States to support the elaboration of the action plan for its implementation, including by defining a mechanism for the rapid mobilisation of national experts (para. 3). Under Paragraph 4, the General Conference also invited “the Director-General to explore, in collaboration with Member States, practical ways for effectively implementing such a mechanism”. The agreement at issue is clearly the product of the cooperation between the Director-General and Italy on this subject and it is indeed the first achievement ever of collaboration between the Director-General and Member States pursuant to Paragraph 4 of the resolution.

Just one month after the signature of the Memorandum, by Decree No. 148 of 16 March 2016, the Italian Minister of Culture and Tourism, Dario Franceschini, gave instructions on the establishment of the civilian component of the Italian “Unite4Heritage” task force. This component is to be comprised of volunteers from among the officials of the Ministry of Culture and Tourism, to be selected on the grounds of their expertise in the protection of cultural and natural heritage and their knowledge of foreign languages. It may also be supplemented by academics and other experts, on the basis of specific agreements to be concluded with universities, research centres and non-governmental organisations (Article 1(2)and (5)). Decree No. 148/2016 also specified that the civilian members of the task force shall act in strict coordination with the Carabinieri Command for the Protection of Cultural Heritage that will exercise command in the field (Article 1(6)).

Shortly afterwards, from 4 to 29 April 2016, twenty-nine officials of the Ministry of Culture and Tourism selected according to the Decree and thirty members of the Carabinieri Command for the Protection of Cultural Heritage attended a special training course aimed at enabling them to operate in crisis environments anywhere in the world.

---

4 According to the Memorandum, the fighting against the plundering and illicit trafficking of cultural properties shall be carried out “through the mobilisation” of the Carabinieri Command for the Protection of Cultural Heritage.


8 Ministry of Culture and Tourism, Undersecretary of State Ilaria Bollett Buitoni, interrogazione a risposta scritta No. 4-04602 del senatore Pietro Liuzzi, Costituzione dei caschi blu della cultura, 10 June 2016, pp. 3-4.
The signature of the Memorandum received wide media coverage in Italy and abroad. The members of the envisaged task force were labelled “Blue Helmets of Culture”. This appellation, however, is incorrect and misleading, since “Blue Helmets” is the term commonly used to describe the members of the United Nations (UN) peacekeeping operations. As already said, the Italian “Unite4Heritage” task force will operate under the aegis of UNESCO. No mention is made of the UN in the Memorandum. Moreover, thus far (March 2017) the activities to be carried out by the task force have not usually been included in the mandate of peacekeeping forces. An exception is the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), which is tasked inter alia with assisting the transitional authorities of Mali “in protecting from attack the cultural and historical sites in Mali, in collaboration with UNESCO”. Only recently has the Security Council envisaged the possible inclusion of this kind of task in the mandate of the UN peacekeeping forces as a rule. In Resolution No. 2347 of 24 March 2017, it affirmed that “the mandate of United Nations peacekeeping operations […] may encompass, as appropriate, assisting relevant authorities, upon their request, in the protection of cultural heritage from destruction, illicit excavation, looting and smuggling in the context of armed conflicts, in collaboration with UNESCO” (para. 19). In light of this, the Italian “Unite4Heritage” task force at most might supplement the activities of a UN peacekeeping force.

It is to be emphasised that the task force was conceived of as a rapid response team that Italy may dispatch abroad, within a short period of time, upon request of the territorial State concerned. There was a general expectation that soon after the training course the Italian “Unite4Heritage” task force would be deployed abroad, in Syria, Iraq or another country facing an emergency that affects the protection of cultural heritage. Contrary to expectations, however, as at the time of writing (March 2017), the task force has only been deployed in the areas of Central Italy affected by the earthquake of 24 August 2016. Its deployment, moreover, took place outside the framework of the Memorandum.

Indeed, the operational agreement between Italy and UNESCO envisaged in the Memorandum has not been concluded yet. Under the terms of the Memorandum, it will provide for “the detailed operational and administrative procedures regarding the Parties’ cooperation in relation to the Italian Task Force”. Such procedures will be established “on the basis of the modalities for the implementation of” the above-mentioned Strategy for the

---


10 The term “Blue Helmets” derives from the light blue helmet or beret that the military personnel of UN peacekeeping operations wear.


12 UN Security Council Resolution No. 2347 was the first Security Council resolution specifically devoted to the issue of the protection of cultural heritage in the event of armed conflicts. It was proposed by Italy and France and adopted unanimously.

“Reinforcement of UNESCO’s action for the protection of culture and the promotion of cultural pluralism in the event of armed conflict”. In other words, the content of the operational agreement will largely depend on that of the action plan for the implementation of the Strategy, which has yet to be adopted, and in particular on the mechanism for the rapid mobilisation of national experts that will be created.

However, the Italian task force can already be deployed abroad outside the framework of the Memorandum, by virtue of a bilateral agreement with the territorial State concerned. In this case, the task force simply cannot use the name “Italian National Task Force in the framework of UNESCO’s Global Coalition Unite4Heritage”.

In any case, whether it falls within the framework of the Memorandum or not, the deployment of the task force abroad shall take place in accordance with Law No. 145 of 21 July 2016, which governs Italy’s participation in international missions. As per Article 2(1) and (2) of that Law, it is up to the Government to decide to deploy the task force abroad, upon notice to the Head of State. The Government’s decision shall then be submitted to Parliament for debate and approval.

The Memorandum was praised as setting up an invaluable mechanism to prevent and react to the destruction and looting of cultural heritage, such as has taken place in Syria and Iraq. However, it will achieve its purpose only if and when the Italian “Unite4Heritage” task force is actually deployed in foreign countries facing a crisis that affects the protection of cultural heritage. As anticipated, this depends inter alia on the adoption by UNESCO of a mechanism for the rapid mobilisation of national experts.

In August 2016, following consultations with Member States, the UNESCO Director-General submitted a proposal for such a mechanism, together with the draft action plan for the implementation of the Strategy, to the Executive Board. She proposed the establishment of a roster of selected experts in the fields of the protection and safeguarding of culture, ready to be deployed rapidly in crisis areas and to assist national authorities in preparedness, immediate response and recovery initiatives relating to cultural heritage. When on mission, those experts would have the status of UNESCO experts and consequently be accorded the privileges and immunities set forth in Article 3 of Annex IV to the 1947 Convention on the Privileges and Immunities of the Specialized Agencies. The roster would be managed by the UNESCO Unit for Emergency Preparedness and Response of the Culture Sector.

In its 200th Session, the UNESCO Executive Board took note of the proposal, together with the draft action plan, and it requested the Director-General “to continue exploring and clarifying all legal and administrative aspects related to the setting up of the proposed mechanism for the rapid deployment of national experts and to consider, in this regard, the possible establishment of specific agreements with Member States to define ways in which the latter may contribute”.

---

14 Law No. 145 of 21 July 2016, GU No. 178 of 1 August 2016. The deployment of the Italian task force abroad falls within the scope of application of Law No. 145/2016 as per its Article 1(2).
16 Ibid., p. 2.
19 UNESCO Executive Board, Report on the implementation of the Strategy for the reinforcement of UNESCO’s action for the protection of culture and the promotion of cultural pluralism in the event of armed conflict, 200 EX/SR.8, 5.I.F.2, in Decisions adopted by the Executive Board at its 200th Session (Paris, 4-18 October 2016), pp. 7-8, paras. 5, 9.
In March 2017, following further consultations with Member States, the Director-General submitted a revised proposal, together with a revised action plan, for the consideration of the Executive Board at its 201st Session. She specified that experts from the roster might be deployed, as individuals or as teams, *inter alia*, on the basis of specific agreements between UNESCO and Member States.\(^{20}\) In this case, the UNESCO Secretariat would take the decision to deploy one or more experts in conjunction with the concerned Member States and subsequently report on such deployments to the Executive Board and the General Conference in the framework of its periodic reports on the implementation of the action plan.\(^{21}\)

If the proposed mechanism for the rapid mobilisation of national experts is adopted, the Memorandum of Understanding between Italy and UNESCO might possibly need some amendment. However, being the first agreement between UNESCO and a Member State on this issue, it would still constitute a useful reference when negotiating the agreements envisaged in the Director-General’s proposal.

---
