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INTERNATIONAL ORGANIZATIONAL MECHANISMS FOR THE PRESERVATION OF CULTURAL HERITAGE

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The article deeply analyzes the international organizational mechanisms for the protection of cultural heritage provided for by important international documents. Here, first of all, the essence and main directions of international organizational mechanisms are determined. Further, the main directions of the UN activity as a universal international organization in this direction are analyzed. At the same time, the specific and main directions of UNESCO's activity as the central international organization in this field are considered. International mechanisms created by important international treaties on the protection of cultural heritage, and the activities of international non-governmental organizations in this field are also the main objects of study in the article. Moreover, the article highlights the issues of cooperation with the Republic of Azerbaijan in the relevant field.

Keywords: *cultural heritage, tangible heritage, intangible heritage, international cooperation, international organizational mechanisms, international organizations, international non-governmental organizations, international control, State Parties, international treaties, human rights and freedoms.*

MECANISME ORGANIZAȚIONALE INTERNAȚIONALE PENTRU CONSERVAREA PATRIMONIULUI CULTURAL

În acest articol este efectuată o analiză temeinică a mecanismelor organizaționale internaționale de protecție a patrimoniului cultural prevăzute de importante documente internaționale. Sunt determinate esența și direcțiile principale ale mecanismelor organizaționale internaționale. Adițional, sunt analizate principalele direcții ale activității ONU ca organizație internațională universală în această direcție. În același timp, sunt luate în considerare direcțiile specifice și principale ale activității UNESCO ca organizație internațională centrală în acest domeniu. Complementar, obiect de studiu sunt și mecanismele internaționale create prin importante tratate internaționale privind protecția patrimoniului cultural, precum și activitățile organizațiilor internaționale neguvernamentale în acest domeniu. Subsecvent, sunt evidențiate problemele cooperării cu Republica Azerbaidjan în domeniul cercetat.

Cuvinte-cheie: *patrimoniul cultural, patrimoniul material, patrimoniul imaterial, cooperare internațională, mecanisme organizaționale internaționale, organizații internaționale, organizații internaționale neguvernamentale, control internațional, state părți, tratate internaționale, drepturile și libertățile omului.*

Like other fields, international mechanisms for the preservation of cultural heritage can be defined in two ways:

- within the framework of international treaties;
- within the framework of international organizational mechanisms.

International treaties combine international norms that regulate relations in the relevant field. Provisions in this regard are governed by the 1969 Vienna Convention on the Law of Treaties.

International organizations are understood as States unions that have a constituent act, a certain structure and a normative character, created in accordance with international treaties to achieve certain goals. In the legal literature there are a number of main characteristics of international organizations as subjects of international law, which determine that they perform important functions as the main regulators of international relations (direct participation in international law-making, international legal responsibility, the possession of certain immunities and privileges, the existence of special rights and obligations, etc.) [1, p.255-257].

The main function of international treaties and international organizations in this field is to conduct the international control system. International control is carried out as a result of the joint efforts of States with the help of international bodies and organizations, mainly, there are two types of it – general and special. In the legal literature, a number of stages of international control are distinguished, using appropriate forms and methods for verifying compliance by States with their obligations: the preparatory stage, which involves determining the subject, object of control, including international legal obligations; the stage of obtaining

information in this direction; the stage of identifying violations by comparing international obligations with relevant information; the stage of making certain decisions in this direction; finally, the stage of taking appropriate measures against a State that does not fulfill its international obligations [2, p.139-159]. It is noted in the legal literature that specifically the mechanism for the international protection of the world cultural heritage combines the obligations enshrined in international conventions and the control system established on the basis of international documents [3, p.4].

International organizations play a key and decisive role in the implementation of international control. The system of international organizations in this field is based on the United Nations. A number of UN bodies directly play an important role in the implementation of international cooperation in this field. The main goals of the UN as an important international organization are the maintenance of international peace and security, the fight against international crime, the development of friendly relationship between peoples and nations, the implementation of international cooperation in solving problems of an economic, socio-cultural and humanitarian nature, etc.

Being the highest representative body of the UN, the UN General Assembly has important powers to determine the main directions of cooperation between States in the maintaining peace and international security, as well as on cooperation in the cultural sphere, including in the field of supporting the realization of human rights and freedoms. Adopting of a number of international documents (for example, conventions, treaties, declarations, resolutions, etc.) in the cultural sphere, the role of the UN General Assembly in international law-making is huge, through which it makes a significant contribution to the legal regulation in this field.

The UN Security Council, which is directly responsible for maintaining international peace and security, takes appropriate measures to prevent situations leading to international disputes and international conflicts. By preventing conflicts, the threat of destruction of the cultural heritage of the peoples of the world is eliminated.

Another UN body, the Economic and Social Council, being the main coordinator of the activities of the UN specialized agencies, as in other fields, makes recommendations to the General Assembly, States and the UN specialized agencies, drafts international documents for submission to the General Assembly in the cultural sphere. There are enough international documents that were adopted with the participation of the UN Economic and Social Council, including the Universal Declaration of Human Rights of 1948, the international covenants on human rights of 1966, and others. International documents have been prepared. Moreover, the UN Economic and Social Council acts in accordance with Article 55 of the UN Charter, aimed at supporting respect for and observance of the fundamental rights and freedoms of people within the UN specialized agencies (for example, the International Labor Organization, UNESCO, the World Health Organization, etc.), which led to the adoption of a sufficient number of international documents.

The Third Committee of the UN General Assembly on Social, Humanitarian and Cultural Issues also performs important functions in the field of preserving cultural heritage. In addition, a number of other UN bodies also carry out practical activities in this field. One of them is the Human Rights Council, where issues related to cultural rights, such as the procedure for the submission of periodic reports by States, are also constantly at the center of attention.

One of the most important specialized agencies of the United Nations is UNESCO (the United Nations Educational, Scientific and Cultural Organization), whose charter was adopted at the London Conference in 1945 and entered into force on November 4, 1946. UNESCO, which aims to promote the strengthening of peace and security by enhancing the cooperation of peoples in the field of education, science and culture, regardless of race, gender, language and religion, serves to directly protect the peace and security of our world through science, culture and education based on international cooperation. One of the main directions of UNESCO's activities is the protection of cultural heritage. A number of international instruments in this field have been adopted within UNESCO, for example: the 1954 Convention for the Protection of the Cultural Property in the Event of Armed Conflict, the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage, the 1952 Universal Copyright Convention, the 1997 Convention on the Recognition of Qualifications Concerning Higher Education in the European Region, the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions, etc.

UNESCO provides assistance to Member States in the implementation of international activities for the protection of cultural heritage, promotes the exchange of information in this field, prepares international documents on cultural heritage and related areas, in general, and carries out international coordination in this direction [4, p.58]. Therefore, the Declaration of the Principles of International Cultural Co-operation, adopted by UNESCO in 1966, enshrines a number of important provisions in this regard. For example, each culture has a dignity and value which must be respected and preserved; Every people has the right and the duty to develop its culture; nations shall endeavour to develop the various branches of culture side by side and, as far as possible, simultaneously, so as to establish a harmonious balance between technical progress and the intellectual and moral advancement of mankind; international cultural co-operation shall cover all aspects of intellectual and creative activities relating to education, science and culture; cultural co-operation is a right and a duty for all peoples and all nations, which should share with one another their knowledge and skills; international co-operation, while promoting the enrichment of all cultures through its beneficent action, shall respect the distinctive character of each [5, p.235-236].

Being a Member State of UNESCO since 1992, our country has been cooperating very closely with this Organization. The Agreement on Cooperation between the Republic of Azerbaijan and UNESCO, signed in November 1996, should be especially noted in this regard. In accordance with the Decree of the President of the Republic of Azerbaijan, dated February 21, 1994, the National Commission of the Republic of Azerbaijan for UNESCO was established under the Ministry of Foreign Affairs of the Republic of Azerbaijan.

In 2000, the 1300th anniversary of the Kitabi-Dede Gorgud epos, in 2001, the 800th anniversary of the birth of Nasreddin Tusi, in 2002, the 200th anniversary of Mirza Kazymbek, in 2005, the 100th anniversary of the academician Yusif Mammadaliyev, in 2006, the 100th anniversary of Latif Kerimov, in 2008, the 100th anniversary of the first performance of the opera Leyli and Majnun, in 2008, the 100th anniversary of the writer Jalal Pashayev, in 2009, the 100th anniversary of academician Musa Aliyev, in 2009, the 100th anniversary of the great painter Sattar Bahlulzade, in 2019, the 100th anniversary of the Baku State University and others, were held directly within the framework of UNESCO. The architectural complex of Icherisheher, the Gobustan State Historical and Artistic Reserve and the Palace of the Sheki Khans are included in the UNESCO World Heritage List, the Azerbaijani mugham is defined as a masterpiece of the intangible heritage of mankind. Further on, the ashug art of Azerbaijan and the Novruz holiday were included in the UNESCO Representative List of the Intangible Cultural Heritage of Humanity. In accordance with the Agreement, signed in 2015 between Baku State University and UNESCO, the UNESCO Chair of Human Rights and Information Law was established at the Faculty of Law of Baku State University, which is still functioning at a high level.

Thus, in the coordination of cultural heritage, UNESCO acts as the main coordinating international organization. In addition, the fact that UNESCO acts as one of the UN specialized agencies once again determines the role of the UN as a universal international organization. It should be noted that, in accordance with Article 55 of the UN Charter, the specialization in certain areas, namely in the economic, social, scientific and technical, cultural, humanitarian, etc., including those closely related to the UN, is one of the main characteristic features of the specialized agencies of the United Nations.

Furthermore, the mechanisms for the protection of cultural heritage, established by specific international treaties are to be analyzed. First of all, the 2005 Convention on the Preservation and Promotion of the Diversity of Cultural Expressions should be noted. Article 18 of the Convention provides for the establishment of the International Fund for Cultural Diversity to coordinate activities in this direction. The Fund consists of funds-in-trust established in accordance with the Financial Regulations of UNESCO. The resources of the Fund consist of: voluntary contributions made by Parties; funds appropriated for this purpose by the General Conference of UNESCO; contributions, gifts or bequests by other States; organizations and programmes of the United Nations system, other regional or international organizations; and public or private bodies or individuals, etc. The Convention establishes a Conference of the Parties. The Conference of the Parties, being the plenary and supreme body of this Convention, meets in ordinary session every two years, as far as possible, in conjunction with the General Conference of UNESCO [6].

In addition, Article 23 of the Convention established the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions within the framework of UNESCO. The Committee currently consists of representatives of 24 States Parties to the Convention and is elected by the Conference of Parties for a term of four years. The Intergovernmental Committee functions under the authority and guidance of and is accountable to the Conference of Parties.

Article 4 of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage established the General Assembly of States Parties. The General Assembly is the main body of this Convention. Ordinary sessions of the General Assembly are held once every two years. An extraordinary session may be held if the General Assembly decides itself or at the request of the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage or at least one third of the States Parties. In addition, Article 5 of the Convention established the Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage.

There are currently 24 Member States of the Committee. The selection of the Member States of the Committee is carried out in compliance with the principles of equitable geographical representation and rotation. Members of the Committee are elected by the States Parties to the Convention at the General Assembly for a term of four years. The functions of the committee are the following: to promote the objectives of the Convention, and to encourage and monitor the implementation thereof; provide guidance on best practices and make recommendations on measures for the safeguarding of the intangible cultural heritage; prepare and submit to the General Assembly for the approval of a draft plan for the use of the resources of the Fund; seek means of increasing its resources, and take the necessary measures to this end; prepare and submit to the General Assembly for the approval of operational directives for the implementation of this Convention; examine the reports submitted by States Parties, and summarize them for the General Assembly; examine requests submitted by States Parties, and decide thereon, in accordance with objective selection criteria to be established by the Committee and approved by the General Assembly. The Committee is answerable to the General Assembly.

In addition, in order to ensure better visibility of the intangible cultural heritage and awareness of its significance, and to encourage dialogue which respects cultural diversity, the Committee, upon the proposal of the States Parties concerned, shall establish, keep up to date and publish a Representative List of the Intangible Cultural Heritage of Humanity. Moreover, Article 25 of the Convention establishes a Fund for the Safeguarding of the Intangible Cultural Heritage. Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay into the Fund, at least every two years, a contribution, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly [7].

Moreover, the States Parties shall submit to the Committee, observing the forms and periodicity to be defined by the Committee, reports on the legislative, regulatory and other measures taken for the implementation of this Convention. On the basis of its activities and the reports by States Parties the Committee shall submit a report to the General Assembly at each of its sessions.

In accordance with Article 8 of the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage, an intergovernmental committee of 21 Member States was established at UNESCO under the name of the World Heritage Committee for the Protection of Cultural and Natural Heritage. The Committee is established to ensure an equitable representation of the different regions and cultures of the world. A representative of the International Centre for the Study of the Preservation and Restoration of Cultural Property (Rome Center), a representative of the International Council of Monuments and Sites and a representative of the International Union for Conservation of Nature and Natural Resources, may attend the meetings of the Committee in an advisory capacity. Every State Party to this Convention submits to the World Heritage Committee, an inventory of property forming part of the cultural and natural heritage, situated in its territory. This inventory, which is not considered exhaustive, includes documentation about the location of the property in question and its significance. On the basis of the inventories submitted by States, the Committee establishes, keeps up to date and publishes, under the title of World Heritage List, in accordance with criteria that the Committee determines. An updated list is distributed at least every two years. Cultural heritage cannot be included in the World Heritage List without the consent of States [8].

A number of important requirements are put forward here: the object must include a significant interaction of human values during a certain period of time or in a certain cultural space, architecture or technology, monumental art, urban planning and landscape design; the object must have at least an exceptional character or be rare for a civilization or cultural traditions that existed until now and disappeared; the object must be an important structure, an architectural, technological ensemble or a sample of the landscape; the site must be an important traditional structure, an example of traditional land or sea use, or an example of culture or human interaction with the environment; the object must be directly related to events or existing customs, ideas and beliefs, literary or artistic works and be of exceptional worldwide significance. Typically, these criteria are used in conjunction with other criteria established by the Committee [9, p.167].

Furthermore, the Committee establishes, keeps up to date and publishes, whenever circumstances so require, under the title of List of World Heritage in Danger, a list of the property appearing in the World Heritage List for the conservation of which major operations are necessary and for which assistance has been requested under this Convention. The list may include only such property forming part of the cultural and natural heritage as is threatened by serious and specific dangers (such as the threat of disappearance caused by accelerated deterioration, large-scale public or private projects or rapid urban or tourist development projects; destruction caused by changes in the use or ownership of the land; major alterations due to unknown causes; abandonment for any reason whatsoever; the outbreak or the threat of an armed conflict; calamities and cataclysms; serious fires, earthquakes, landslides; volcanic eruptions; changes in water level, floods and tidal waves).

Apart from this, Article 15 of the Convention establishes a World Heritage Fund for the protection of the world cultural and natural heritage of outstanding universal value.

The protection of cultural heritage needs a particular attention during military conflicts, so that a number of international documents were adopted in this direction. For example, the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflicts of 1954 and its Additional Protocols of 1977 and 1999 set forth important obligations of States in this field [10, p.329-333]. These international documents play an important role in regulating relationship in the relevant field, although specific international mechanisms have not been defined by them.

In addition to the above-mentioned international mechanisms that directly serve the preservation of cultural heritage, it is necessary to note other institutions created in this direction.

First of all, the goal of the Turkic Culture and Heritage Foundation, established in 2009 at the IX Summit of the Heads of State of Turkic-speaking States in Nakhchivan, is to protect, restore and promote Turkic culture and heritage. Important activities are currently underway to further develop the activities of this Fund.

Furthermore, ICESCO (Islamic World Educational, Scientific and Cultural Organization), established under the Organization of Islamic Cooperation, acts as a special organization dealing with education, science and culture among Islamic States, aimed at further strengthening and developing international relationship between Member States. The Republic of Azerbaijan closely cooperates with ICESCO, and a lot of work has been done in this direction recently. The 2006 Protocol on Cooperation, signed between the Ministry of Culture and Tourism of the Republic of Azerbaijan and ICESCO, has an important role in this regard. In general, it should be noted that within the framework of the Organization of Islamic Cooperation, a number of important documents related to our State, in particular, the Armenian-Azerbaijani conflict, were adopted, for example: resolutions of the Council of Ministers of Foreign Affairs of the Organization of Islamic Cooperation on the Conflict between Armenia and Azerbaijan (1994, 11/22-P), on the Destruction and Desecration of Islamic Historical and Cultural Relics and Shrines in the Occupied Azeri Territories Resulting from the Republic of Armenia's Aggression against the Republic of Azerbaijan (2002, 11/29-C), on the Aggression of the Republic of Armenia against the Republic of Azerbaijan (2016, 10/43-P), on the Protection of Islamic Holy Places (2016, 3/43-C), etc., can be noted [11, p.75-76].

Conclusions

Currently, a number of international non-governmental organizations are operating at the international level, aimed at protecting cultural heritage. Such organizations include the International Council of Museums, the International Council on Monuments and Sites, the International Center for the Study of the Preservation and Restoration of Cultural Property (Rome Center), the International Union for the Conservation of Nature, etc. These international non-governmental organizations, which have a category A consultative status with UNESCO, carry out significant activities for the protection of cultural heritage in their respective areas within their powers and even adopt a number of important documents [12, p.114-115].

Despite the advisory nature, the Code of Ethics for Museums adopted by the International Council of Museums contains ethical norms for the acquisition of cultural property by museums, some measures to combat the illicit circulation of cultural property and other important provisions. The International Council on Monuments and Sites, presently being an advisory body of the UNESCO World Heritage Center, bringing together more than 100 national committees, more than 30 international scientific committees and more than 10 thousand individual members from 160 countries, has adopted a number of advisory documents on the application of a

scientific and methodological approach on the protection of architectural and archaeological monuments and development of cooperation in this field.

Moreover, international non-governmental organizations included the International Union of Architects, the International Council on Archives, the World Monuments Fund, the Organization of World Heritage Cities, the European Association of Historic Towns and Regions, the Organization Museum, Monuments and Sites of Africa, the Latin American Institute of Museums, etc. carry out important activities for the preservation of cultural heritage.

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