

**DESTROYING UNESCO WORLD HERITAGE:
AN ATTACK ON THE INTERNATIONAL COMMUNITY?**

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A. INTRODUCTION

Since the outbreak of the current armed conflicts in Ukraine and Palestine, both States have actively invested in their nominations to the World Heritage List established by the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage (hereafter ‘World Heritage Convention’). Both Palestine and Ukraine have relied on emergency procedures to nominate certain sites, while simultaneously inscribing several other properties – which had previously been added to the World Heritage List – to the List of World Heritage in Danger. The destruction of such cultural and natural heritage would be an impoverishment for the whole international community.¹ As such, this article assesses the influence of an inscription on the World Heritage List on the conviction of an individual for the war crime of intentionally directing attacks against buildings dedicated to art or historic monuments that are inscribed on the World Heritage List.

First, this article will discuss the jurisprudence of the International Criminal Court and previous decisions of the International Criminal Tribunal for the Former Yugoslavia to determine how a World Heritage listing has affected their assessment of the crime. This article will then reflect on the recent Palestinian and Ukrainian inscriptions on the World Heritage List as opportunities for the enforceability of the World Heritage Convention concerning the intentional destruction of cultural heritage.

B. THE WORLD HERITAGE CONVENTION AND THE ROME STATUTE

In 1972, States agreed that certain cultural and natural properties were of such great universal importance to the international community and that their loss would traverse geographical borders and negatively affect individuals in the present and the future. Since then, 1,248 properties have been inscribed on the World Heritage List. In accordance with the Convention, each State thus has a duty to protect World Heritage sites so they can be transmitted to future generations, and States Parties have an obligation not to take any deliberate measures which might cause direct or indirect damage to cultural and natural properties on the World Heritage List located on the territory of other States Parties.² However, the World Heritage Convention does not provide a specific scope or legal framework for the enforceability of these obligations. While they might be owed to all States Parties to safeguard their collective interest in World Heritage protection (and thus be considered *erga omnes partes* obligations), no State has invoked the responsibility of

¹ Convention Concerning the Protection of the World Cultural and Natural Heritage (adopted 16 November 1972, entered into force 17 December 1975) 1037 UNTS 151 (World Heritage Convention), preamble.

² *ibid.*, arts 4 and 6(3).

another State Party for the intentional destruction of a World Heritage site.³ Considering 196 States are party to the World Heritage Convention, such responsibility could, in principle, be invoked by nearly every State. Moreover, in his Separate Opinion to the *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear*, Judge Cançado Trindade even argued that “the prohibition of destruction of cultural heritage of an outstanding universal value and great relevance for humankind,” could be considered as an *erga omnes* obligation, owed to all States.⁴

While the World Heritage Convention imposes a range of obligations on States Parties, it remains silent on any such obligations for individuals. Nevertheless, the International Criminal Court has considered the provisions of this Convention when establishing the war crime of intentionally directing attacks against cultural heritage. The Rome Statute of the International Criminal Court (hereafter ‘the Rome Statute’) explicitly includes “intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, [...], provided they are not military objectives” as a war crime, in international and non-international armed conflicts.⁵

The scope of protected sites is thus narrower in the Rome Statute than in the World Heritage Convention. For instance, the Rome Statute only refers to cultural objects, while the World Heritage List also comprises 235 natural properties.⁶ Moreover, the Rome Statute only includes certain categories of cultural heritage, such as buildings dedicated to art and historic monuments, while the World Heritage Convention contains a broader definition of cultural heritage, also including other properties such as cave dwellings and archaeological sites.⁷ Nevertheless, the World Heritage Convention only aspires to protect heritage of an “outstanding universal value,”⁸ thus establishing a high threshold, while the Rome Statute does not require any degree of international importance for a property to be protected.

³ Roger O’Keefe, *World Cultural Heritage: Obligations to the International Community as a Whole?* (2004) 53 *International and Comparative Quarterly* 189, 190.

⁴ *Request for Interpretation of the Judgment of 15 June 1962 in the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand)* (Provisional Measures: Order of 18 July 2011) (Separate Opinion of Judge Cançado Trindade) [2011] ICJ Rep 537, 93; Francesco Francioni and Federico Lenzerini, ‘The Destruction of the Buddhas of Bamiyan and International Law’ (2003) 14 *EJIL* 619, 634 and 638.

⁵ Rome Statute of the International Criminal Court (adopted on 17 July 1998, entered into force 1 July (2002) 2187 UNTS 38544 (Rome Statute), arts 8(2)(b)(ix) and 8(2)(e)(iv).

⁶ Rome Statute, art 8(b)(iv) does refer to ‘widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated.’ Moreover, in paragraph 16 of its 2021 Policy on Cultural Heritage, the Office of the Prosecutor referred to cultural heritage as including ‘natural heritage (natural sites of cultural value, including certain natural or cultivated landscapes and physical, biological, or geological formations).’ It is, however, unclear under which of these provisions the intentional destruction of natural World Heritage sites could be categorised.

⁷ World Heritage Convention, art 1.

⁸ *ibid*, arts 1, 2, 11(2).

C. CONSIDERATIONS OF INTERNATIONAL COURTS AND TRIBUNALS

(1) World Heritage Listing: A Threshold to Convict?

Even though the intentional destruction of cultural property is prohibited under the Rome Statute, convictions for this crime have remained rare in the history of the International Criminal Court, with the Court applying Article 8(2)(e)(iv) of the Statute for the first time in 2016 in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*.⁹ Mr Al Mahdi became the first person to be convicted by the International Criminal Court for the sole crime of intentionally targeting cultural heritage. By exclusively focusing on this particular crime, the Court took a symbolic stance affirming the intentional targeting of cultural heritage as a serious offence, since it affects both the local and international community.¹⁰

Between June and July 2012, Mr. Al Mahdi directed attacks against ten Malian historic monuments and religious buildings.¹¹ These monuments and buildings included nine mausoleums and one mosque in Timbuktu. All but one of these properties were protected as UNESCO World Heritage sites.¹² In 2016, Mr. Al Mahdi was found guilty and sentenced to nine years in prison.¹³

The International Criminal Court determined that five elements must be proven to establish the crime of the intentional destruction of cultural property. First, the perpetrator must have directed the attack. Second, the attack must have been directed against, *inter alia*, buildings dedicated to art or historic monuments, which were not military objectives. Third, the perpetrator must have intended for the building or monument to be the object of the attack. Fourth, the conduct must have taken place in the context of a non-international armed conflict and fifth, the perpetrator must have been aware of the factual existence of that armed conflict.¹⁴

For the establishment of this threshold, the World Heritage designation of a property is especially relevant for the second element. This was a consideration made by the International Criminal Court in *Al Mahdi*, when it determined whether the attack was directed against buildings dedicated to art or historic monuments. The Court decided that all the properties were indeed sites dedicated to religion or historic monuments, and not military objectives, as all, except the Sheikh Mohamed Mahmoud Al Arawani

⁹ *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (Judgment and Sentence) ICC-01/12-01/15 (27 September 2016).

¹⁰ International Criminal Court – The Office of the Prosecutor, ‘*Policy on Cultural Heritage*’ (June 2021) <<https://www.icc-cpi.int/sites/default/files/itemsDocuments/20210614-otp-policy-cultural-heritage-eng.pdf>> accessed 23 January 2025, para 6.

¹¹ *Al Mahdi* (n 9) [49].

¹² *Al Mahdi* (n 9) [39].

¹³ *ibid* [49].

¹⁴ *ibid* [13].

Mausoleum, had the status of UNESCO World Heritage sites.¹⁵ According to the Court, the designation of these properties as UNESCO World Heritage “reflects their special importance to international cultural heritage” and attacking these sites “was clearly an affront to [the] values [embodied in the UNESCO Constitution]”.¹⁶ Moreover, the Court also quoted Mr. Al Mahdi saying, “those UNESCO jackasses – [...] they think this is heritage. Does ‘heritage’ include worshipping cows and trees?” to illustrate how he took the World Heritage designation of the properties into consideration when attacking the Djingareyber Mosque.¹⁷ Thus, to the International Criminal Court, the mere inscription of these properties on the World Heritage List was sufficient to determine their religious and historic nature. The Court did not elaborate on any further elements for non-inscribed properties to also meet this threshold.¹⁸

The International Criminal Tribunal for the Former Yugoslavia had previously followed a similar reasoning in *Prosecutor v Pavle Strugar*.¹⁹ However, its jurisprudence is of limited relevance as the Tribunal decided in a different legal context since its applicable law focused on the “destruction or wilful damage” of cultural objects, rather than “attacks” against them.²⁰ In *Strugar*, the Tribunal determined that the destruction of the Old Town of Dubrovnik met the threshold for “institutions dedicated to religion, charity, and education, the arts and sciences, historic monuments and works of art and science” in Article 3(d) of its Statute, as the entirety of the Old Town was added to the World Heritage List in 1979.²¹ The Tribunal did not elaborate further on this issue, and this view was later affirmed by the Appeals Chamber.²² Both in *Al Mahdi* and in *Strugar*, the inscription of a property on the List was thus sufficient to qualify as a historic monument or institution dedicated to the arts.

(2) Gravity of the Crime

While the Court noted that crimes against property are generally less grave than crimes against persons, it did consider that the World Heritage designation added to the gravity of the crime as the property destruction affected both the people of Mali and the international community. Not only did the people of

¹⁵ *ibid* [39], [46].

¹⁶ *ibid* [46].

¹⁷ *Al Mahdi* (n 9).

¹⁸ Audrey Adu-Appiah and others (eds), ‘Prosecutor v. Ahmad Al Faqi Al Mahdi - International Criminal Court Imposes First Sentence for War Crime of Attacking Cultural Heritage’ (2017) 130 Harvard Law Review 1978, 1984.

¹⁹ *Prosecutor v. Pavle Strugar* (Judgment) IT-01-42-T, T Ch II (31 January 2005).

²⁰ *Al Mahdi* (n 9) [16]; Statute of the International Criminal Tribunal for the Former Yugoslavia (adopted 25 May 1993 by resolution 827, as amended on 19 May 2003 by resolution 1481), Art 3(d); *Prosecutor v. Pavle Strugar* (Judgment) IT-01-42-T, T Ch II (31 January 2005) [308]. Overall, the International Criminal Tribunal for the Former Yugoslavia issued charges against individuals for the destruction of cultural property in eleven cases but always did so in combination with other crimes. Only two of these cases referenced the destruction of UNESCO World Heritage specifically: the case of Miodrag Jokić and the case of Pavle Strugar.

²¹ *Strugar* (n 19) [327].

²² *Prosecutor v. Pavle Strugar* (Appeal Judgment) IT-01-42-A (17 July 2008) [279].

Timbuktu have an emotional attachment to the properties, and the destruction of these properties was intended to break their souls, but the entire international community also suffered from the losses.²³ The destruction of a property on the World Heritage List was thus particularly severe, as its impact went beyond the local community and affected all States and persons worldwide. Since the Court had already considered the World Heritage designation when assessing the gravity of the crime, it did not take this into account again as an aggravating circumstance, nor the fact that the crime affected multiple victims.²⁴ However, the destruction of cultural heritage sites is generally intended to hurt the persons and communities for whom this heritage forms part of their cultural identity, thus by extension making it a crime against persons rather than property. Reducing the crime to only its material component could lead to an underestimation of the gravity of the crime.²⁵

In *Prosecutor v Miodrag Jokić*, the Tribunal similarly considered the special status of the Old Town of Dubrovnik as a World Heritage site when determining the gravity of the crime but did not consider this for the establishment of aggravating circumstances.²⁶ According to the International Criminal Tribunal for the Former Yugoslavia, an attack against the Old Town of Dubrovnik was not only an attack “against the history and heritage of the region, but also against the cultural heritage of humankind.”²⁷ The Trial Chamber assessed that it is “a crime of even greater seriousness to direct an attack on an especially protected site.”²⁸ Moreover, the Tribunal referred to the awareness of Mr Jokić of the protected status of the whole of the Old Town as a UNESCO World Heritage site.²⁹ Similarly, in *Strugar*, the Tribunal determined that the World Heritage status of the Old Town of Dubrovnik was a “matter of renown,” as was its “unique cultural and historical character.”³⁰ From this evidence, the Chamber inferred the perpetrators’ intent to deliberately destroy the Old Town.³¹

However, even though attacks against World Heritage are inherently of a particular gravity, the International Criminal Tribunal for the Former Yugoslavia did not require all cultural heritage to be of such importance to determine the unlawfulness of attacks against it.³² Moreover, the particular gravity of World

²³ *Al Mabdi* (n 9) [80]. For an elaboration on the impact of the destruction of these properties on the local communities, see Oumar Ba, ‘Contested Meanings: Timbuktu and the Prosecution of Destruction of Cultural Heritage as War Crimes’ (2020) 63 *African Studies Review* 743, 746.

²⁴ *Al Mabdi* (n 9) [87].

²⁵ Federico Lenzerini, ‘Intentional Destruction of Cultural Heritage, Crimes Against Humanity and Genocide: Towards an Evolutionary Interpretation of International Criminal Law’ (2017) 74 *Europa Ethnica* 66, 68.

²⁶ *Prosecutor v. Miodrag Jokić* (Sentencing Judgment) IT-01-42/1-S (18 March 2004) [67].

²⁷ *ibid* [51].

²⁸ *ibid* [53].

²⁹ *ibid* [55].

³⁰ *Strugar* (n 19) [329].

³¹ *ibid*.

³² International Criminal Court (n 10) para 43; *Jokić* (n 26) [51]-[53], [67].

Heritage properties depends on their inscription as such, irrespective of the regard “held by their immediate society at the material time.”³³

(3) An Element for the Determination of Reparations

The World Heritage listing of the destroyed cultural property was not only considered by the International Criminal Court for the judgment of Mr Al Mahdi, but also in the determination of the reparations to be made. According to the Rome Statute, reparations for the victims of attacks on cultural property must be provided, while the preamble of the World Heritage Convention states that the destruction of cultural and natural heritage constitutes a loss for the international community as a whole.³⁴ Thus, the international community must be included among the victims of the crime of the intentional destruction of World Heritage.

However, UNESCO decided not to submit any application for reparations as it argued the principal victims of the crime had been the local communities.³⁵ Nevertheless, the Chamber determined that one symbolic euro should be given to UNESCO, which acted as a representative of the international community.³⁶

Unlike *Al Mahdi*, the issue of reparations was not taken into consideration in *Strugar* and *Jokić* as the Tribunal’s Statute did not include any provisions regarding reparations.³⁷

D. NEW WORLD HERITAGE IN PALESTINE AND UKRAINE

(1) Ukraine

The above analysis emphasises the central role of the World Heritage Convention for the establishment of the threshold, gravity and reparations for the war crime of the intentional destruction of cultural property. Since the outbreak of the ongoing armed conflict between Russia and Ukraine on 24 February 2022,

³³ International Criminal Court (n 10) para [47].

³⁴ *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (Reparations Order) ICC-01/12-01/15 (17 August 2017) [14].

³⁵ *ibid* [52].

³⁶ *ibid* [107].

³⁷ Christine Evans, *The Right to Reparation in International Law for Victims of Armed Conflict* (CUP 2012) 91.

UNESCO has identified damage to more than 400 cultural sites in Ukraine.³⁸ Considering the dangers to Ukrainian cultural heritage, the World Heritage Committee decided to inscribe three properties on the List of World Heritage in Danger in 2023: the ‘Kyiv: Saint-Sophia Cathedral and Related Monastic Buildings, Kyiv-Pechersk Lavra,’ ‘L’viv – the Ensemble of the Historic Centre’ and ‘the Historic Centre of Odesa.’ While each of these properties experienced its own specific threats, the World Heritage Committee also noted several common risks to all Ukrainian cultural and natural heritage, especially those sites located in larger urban areas.³⁹ In total, Ukraine has eight properties inscribed on the World Heritage List: seven cultural sites and one natural site.⁴⁰

‘The Historic Centre of Odesa’ was inscribed on an emergency basis on both the World Heritage List and the List of World Heritage in Danger in 2023 after the seaport of Odesa was hit by missiles in July 2022.⁴¹ Both buildings in the nominated area, such as the Vorontsov Palace, and buildings in the proposed buffer zone were damaged during this attack. The International Council on Monuments and Sites (ICOMOS) noted in its evaluation that the damage to the five affected properties had been limited to broken glass in several windows and the roof, but considered a listing of ‘the Historic Centre of Odesa’ useful to protect the site in the future, and to gather support of the international community to protect the property during the remainder of the ongoing conflict.⁴² ICOMOS thus assumed that an addition to the World Heritage List would increase international solidarity to protect properties endangered by war and counted on the international community to raise its voice together.

(2) Palestine

Similarly, UNESCO has identified damage to more than 100 sites in the Gaza Strip since 7 October 2023.⁴³ Several Palestinian properties have also been inscribed on the List of World Heritage in Danger due to the ongoing conflict with Israel. The State of Palestine ratified the World Heritage Convention in 2011 after

³⁸ UNESCO, ‘Damaged Cultural Sites in Ukraine Verified by UNESCO’ (16 April 2025) <<https://www.unesco.org/en/articles/damaged-cultural-sites-ukraine-verified-unesco>> accessed 21 April 2025; UNESCO, ‘Ukraine: Nearly 30 States Pledge to Support UNESCO’s Efforts in the Recovery of the Cultural Sector’ (7 June 2023) <<https://whc.unesco.org/en/news/2695>> accessed 23 January 2025.

³⁹ UNESCO World Heritage Committee, ‘State of Conservation of Properties Inscribed on the World Heritage List’ (31 July 2023) WHC/23/45.COM/7B.Add, 112.

⁴⁰ UNESCO, ‘Ukraine’ (UNESCO World Heritage Convention) <<https://whc.unesco.org/en/statesparties/ua>> accessed 1 September 2024.

⁴¹ UNESCO World Heritage Committee, ‘Any Other Matter: Nominations to the World Heritage List - Nominations to be Processed on an Emergency Basis - Ukraine’ (24-25 January 2023) 18 EXT.COM 5.2; UNESCO World Heritage Committee, ‘Update of the List of World Heritage in Danger (Retained Properties)’ (21-31 July 2024) 46 COM 8C.2.

⁴² ICOMOS, ‘Advisory Body Evaluation: Historic Center of Odesa (Ukraine)’ (2023) No 1703, 35.

⁴³ UNESCO, ‘Gaza Strip: Damage Assessment’ (*UNESCO World Heritage Convention*, 9 April 2025) <<https://www.unesco.org/en/gaza/assessment>> accessed 21 April 2025.

becoming a member of UNESCO earlier that year and currently has five properties inscribed on the World Heritage List, three of which were also added to the List of World Heritage in Danger.⁴⁴ However, only ‘Saint Hilarion Monastery/Tell Umm Amer’ was added to the World Heritage List and the List of World Heritage in Danger in 2024 after the renewed outbreak of the conflict. Nevertheless, the other two properties, ‘Palestine: Land of Olives and Vines – Cultural Landscape of Southern Jerusalem, Battir’ and ‘Hebron/Al-Khalil Old Town’, were inscribed on the List of World Heritage in Danger partly because of the already ongoing tensions between Israel and Palestine.

For instance, the Land of Olives and Vines were inscribed on an emergency basis on both the World Heritage List and the List of World Heritage in Danger in 2014 due to the vulnerability of the area caused by socio-cultural and geo-political changes.⁴⁵ The cultural landscape faced the threat of the construction of a fence of five hundred meters long with a security zone of fifty to ninety meters on either side, which would irreversibly damage the natural landscape and physically prevent Battir farmers from accessing their fields.⁴⁶ ICOMOS considered even the potential construction of such a fence, in addition to new Israeli settlements being built in the buffer zone of the nominated property and mass-displacements of residents, as a sufficiently large and concrete risk to the nominated property.⁴⁷ Moreover, ‘Hebron/Al-Khalil Old Town’ was equally inscribed on an emergency basis on both the World Heritage List and the List of World Heritage in Danger in 2017 after more than twenty violations of the property’s integrity had taken place between February and April 2017.⁴⁸ ICOMOS reported these violations ranged from the occupying forces preventing the restoration of a roof, to these forces conducting illegal excavations.⁴⁹ Additionally, they had also restricted the freedom of movement of inhabitants of the Old Town.⁵⁰

Most recently, in 2024, ‘Saint Hilarion Monastery/Tell Umm Amer’ was inscribed on an emergency basis on both the World Heritage List and the List of World Heritage in Danger.⁵¹ As the oldest monastery in Palestine, it had been on the Palestinian Tentative List for several years, but the State only decided to nominate it in 2024 after two other sites on its Tentative List had been partially or fully destroyed.⁵²

⁴⁴ UNESCO World Heritage List, *Palestine: Land of Olives and Vines – Cultural Landscape of Southern Jerusalem, Battir* (inscribed 2014); *Hebron/Al-Khalil Old Town* (inscribed 2017); *Saint Hilarion Monastery / Tell Umm Amer* (inscribed 2024).

⁴⁵ UNESCO World Heritage Committee, ‘*Nominations to be Processed on an Emergency Basis: Palestine: Land of Olives and Vines – Cultural Landscape of Southern Jerusalem, Battir*’ (15-25 June 2014) 38 COM 8B.4.

⁴⁶ ICOMOS, ‘Advisory Body Evaluation: Cultural Landscape of Southern Jerusalem, Battir (Palestine)’ (2014) Nr. 1492, 7, 12.

⁴⁷ *ibid.*

⁴⁸ UNESCO World Heritage Committee, ‘Hebron/Al-Khalil Old Town (Palestine)’ (2-12 July 2017) 41 COM 8B.1.

⁴⁹ ICOMOS, ‘Advisory Body Evaluation: Hebron/Al-Khalil Old Town (Palestine)’ (2017) Nr. 1565, 9.

⁵⁰ *ibid.*

⁵¹ UNESCO World Heritage Committee, ‘Saint Hilarion Monastery/Tell Umm Amer (State of Palestine)’ (21-31 July 2024) 46 COM 8B.44.

⁵² UNESCO World Heritage, ‘Saint Hilarion Monastery/Tell Umm Amer – Emergency Nomination File’ (June 2024) Nr. 1749, 5. The *Wadi Gaza Coastal Wetlands* has been on Palestine’s Tentative List since 2012. Palestine had been investing in the restoration of this area as part of its environmental management, but these efforts were undone by the recent conflict (UN Environment Programme, ‘Damage to Gaza Causing New Risks to Human Health’ (*UN Environment Programme*, 18 June 2024) <<https://www.unep.org/news-and-stories/press-release/damage-gaza-causing-new-risks-human-health-and-long-term-recovery>> accessed 12 January 2025). The *Athedon Harbour*, the archaeological site of an Ancient Greek port in Gaza, was

Compared to these other properties, the Saint Hilarion Monastery had only suffered minor damage at the time of nomination. However, its location near a refugee camp and the city of Nuseirat makes the property extremely vulnerable.⁵³ In the Monastery's nomination file, the State Party chose to draw parallels between the impact of the current conflict on the monastery and its impact on Palestinian properties generally.⁵⁴ Moreover, the file emphasised that cultural heritage "serves as a source of social cohesion and humanitarian values, and gives people a sense of place, belonging and identity."⁵⁵ Notably, ICOMOS could not provide an evaluation of the property considering the ongoing security conditions and could thus not determine whether it fulfilled the requirements for an "outstanding universal value." However, ICOMOS agreed that a nomination under the emergency procedure was justified due to the threats of the ongoing armed conflict in the area.⁵⁶

E. CONCLUSION

Both the Ukrainian and Palestinian examples illustrate how ICOMOS and the nominating States Parties rely on a listing as World Heritage in Danger to draw the attention of the international community. Considering the great weight the International Criminal Court has previously given to such a World Heritage listing, these emergency inscriptions could become strategic decisions for States to facilitate the proceedings regarding the intentional destruction of cultural property in the future. While there is no indication in the nomination files that the Ukrainian and Palestinian governments acted with such proceedings in mind, this approach might create a hierarchy among cultural heritage protection, and lead to the misuse of the World Heritage List as a tool towards conviction by the International Criminal Court. Moreover, considering the limited scope of the Court's current jurisprudence, such an inscription might seem like the only course to conviction since the Court did not indicate under which conditions non-World Heritage sites could fall within the protection of the Rome Statute.⁵⁷

damaged by bombings in 2023 (Human Rights Watch, 'Destroying Cultural Heritage: Explosive Weapons' Effects in Armed Conflict and Measures to Strengthen Protection' (*Human Rights Watch*, 18 April 2024) <<https://www.hrw.org/report/2024/04/18/destroying-cultural-heritage/explosive-weapons-effects-armed-conflict-and>> accessed 12 January 2025). Considering the situation in Palestine as of January 2025, it is still unclear what the full extent of the damage of the conflict has been to Palestinian cultural and natural properties.

⁵³ *ibid.*

⁵⁴ *ibid.*

⁵⁵ *ibid* Annex 2.

⁵⁶ ICOMOS, 'Notification Regarding the Saint Hilarion Monastery/ Tell Umm Amer (State of Palestine) Nomination' (19 July 2024) WHC/24/46.COM/INF.8B1.Add.2; ICOMOS, 'Advisory Body Evaluation: Hebron/Al-Khalil Old Town (Palestine)' (2017) Nr. 1565, 9.

⁵⁷ Adu-Appiah (n 18) 1984.

However, based on this narrow interpretation, certain types of heritage, such as the natural properties on the World Heritage List, fall between the cracks of the Rome Statute.⁵⁸ Furthermore, the current interpretation of the International Criminal Court would exclude cultural heritage that has not been inscribed on the World Heritage List, such as the 149 Ukrainian religious sites which have been damaged since 24 February 2022 or the nine Palestinian monuments which have been damaged since 7 October 2023.⁵⁹ The large-scale destruction of cultural heritage in Ukraine and Palestine, as identified by UNESCO, thus provides pivotal opportunities for the enforceability of the World Heritage Convention if the Prosecutor were to investigate these. Looking forward, the next decade will be crucial to further determine the scope of the obligations regarding cultural heritage in the Rome Statute, and to await whether the International Criminal Court will look beyond a property's World Heritage listing to determine the scope and gravity of this specific crime.

⁵⁸ *ibid* 1983-1984.

⁵⁹ UNESCO World Heritage Convention, 'Damaged Cultural Sites in Ukraine Verified by UNESCO' (16 April 2025) <<https://www.unesco.org/en/articles/damaged-cultural-sites-ukraine-verified-unesco>> accessed 21 April 2025; UNESCO World Heritage Convention, 'Gaza Strip: Damage Assessment' (9 April 2025) <<https://www.unesco.org/en/gaza/assessment>> accessed 21 April 2025.